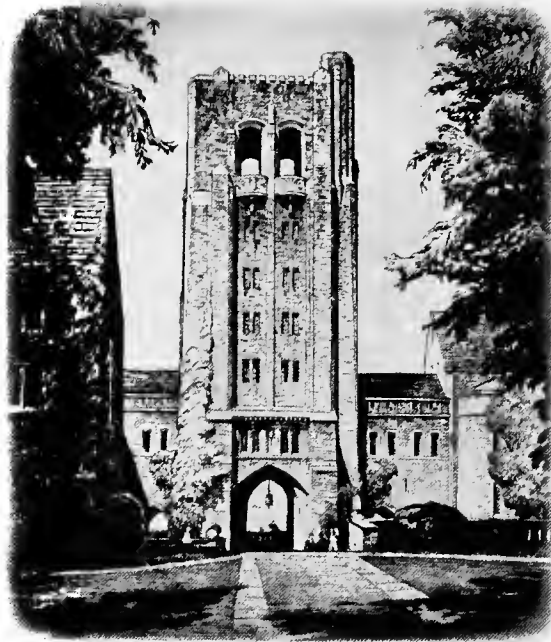


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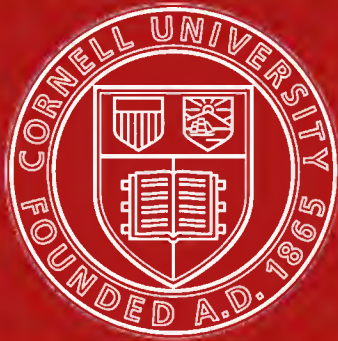
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LORD BROUGHAM

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DESIROUS as Lord Brougham was of leaving a distinguished reputation as a statesman, orator, philosopher, and lawyer, it was his special weakness to be known as "Brougham of that Ilk," the representative of a great family whose landed estates had been immemorially in their possession. He persuaded himself, indeed, that his forefathers had lived in a state of Baronial grandeur since the days of Antoninus, and claimed, while yet a commoner, a right to be summoned to Parliament as heir general of the old Barony of Vaux.

He also tried assiduously to make a mystery both of the place and time of his birth, which, however, is proved clearly to have taken place in St. Andrew's Square, Edinboro', on the 19th of September, 1779. His father, who was a very eccentric man, appears to have lived upon the small patrimony of Brougham Hall, Westmoreland, which he inherited, and which is celebrated in Wordsworth's poems. Migrating to Edinboro', he married a Mrs. Syme, the widow of a clergyman, and of their marriage Henry, the future Lord Chancellor, was the first issue. His mother was a

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woman of both intellect and acquirements, to whom throughout his life he was deeply attached, but he never seemed to consider himself under any great obligations to his father. He is described as a precocious child, speaking earlier and more distinctly than children usually do, with a great objection to go to sleep at night with all the hushing of his nurse. Being prevailed on, upon one occasion, to lie down and shut his eyes, he suddenly started up saying, "Naw, naw, bawby it wanna du," and thus lisping the broadest Scotch in his infancy, he retained the accent throughout his life. Sent to the High School at an early age, he began to learn Latin of an undermaster named Fraser, who, not being a profound scholar, the boy Brougham made it his great endeavor to ridicule. On one occasion Fraser had punished him for his alleged bad Latinity, when the next morning Brougham came loaded with authorities, to show that his alleged solecisms were the purest Latin of the Roman writers of the Augustan age. His master had the magnanimity to praise his industry, and from that time he was hailed as king of the school. He possessed unbounded self-confidence and a thirst for knowledge, and soon made great proficiency in modern languages and mathematics. In 1792 he became an alumnus of the Edinboro' University, then in its zenith, where, during a curriculum of four years, he attended nearly all the classes and acquired a prodigious store of information. At the age of eighteen he wrote and sent to the Royal Society of London a paper on "Inflection, Reflection, and Colors of Light," which was published among their transactions, and he subsequently continued to send papers to that

learned Society. In addition to those scientific exercises he joined several of those debating societies which were regarded as the grand stimulus to mental effort in the Scottish Universities. He was not, however, an over-quiet student at that time, for, after discussing literary and philosophical questions, he would wind up the night by rollicking in taverns, twisting off bell-pulls and knockers, smashing lamps, and other fashionable gentlemanly irregularities. Having completed his curriculum in "Humanity and Philosophy," as understood at the Scottish universities, he determined, with his father and mother's approval, to become an advocate; and while not neglecting his philosophic studies, gave regular attendance to the law classes. At length, after due examination he appeared, cocked hat in hand, before the Judges at the bar of the Parliament House, on the 10th of June, 1800, and, after bowing to the Bench, retired an advocate. He commenced his professional career by going on circuit as counsel for the pauper prisoners, or, as it is called in Scotland, "a brother of mercy." On the southern circuit, on which he went, Lord Eskgrove presided, a foolish old gentleman, of whom most ludicrous stories are told, and Brougham seems to have laid down a systematic plan for making game of him. The wonder is he was not committed for contempt. At the very outset, as the Judge's procession, led by the halbert men called "the Crailing guard," entered Jedburgh, Brougham whipped his horse and charged the procession, scattering the magnates of the place, and nearly upsetting the Judge in the kennel. His lordship on reaching the court house was in a great fume, but hadn't the courage

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to deal with the assailant, who, with a respectful bow, said he was afraid his lordship would suffer from the heat, and asked him to order a window to be opened; and no further notice was taken of the *fracas*. Brougham had to defend all the prisoners, and did all he could to show disrespect of the Judge, whom he continued to persecute, and eventually nearly tormented to death. The first trial was for sheep-stealing, and Brougham objected to the relevancy of the libel, on the ground that the charge did not state whether the "pannel" had stolen a tup, ewe, or wether; and in the next case, a man being charged with stealing a pair of boots, which turned out to be half boots, the learned counsel argued that they were no more boots than a half guinea is a guinea. His conduct on this and other occasions at this time of his life was so eccentric as to give rise to a suspicion of insanity, and render his friends very uneasy about him. Very shortly after this, however, we find him associated with that galaxy of intellectual power which brought out *The Edinboro' Review*. His admission into that society was long resisted by Sidney Smith, from a "strong impression of his indiscretion and rashness." Unsatisfied with the career which was before him in Scotland, Brougham at the end of the year 1803, removed to London, and entered himself of Lincoln's Inn. He soon was made free of the most agreeable society in Europe, that of Holland House, and made the acquaintance of Wilberforce, the negro liberator, being hailed by him as a coadjutor in the holy cause of the abolition of slavery. . On the 22nd of November, 1808, he was called to the English Bar, and joined the Northern

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Circuit, but he had for a long time but little practice, showed no tact in conducting a case, and, although vigorous as a speaker, was never a verdict-getting counsel. His professional income mainly arose from Scotch Appeals in the House of Lords, where the Lord Chancellor, Eldon, evinced a strong prejudice against him. Eldon, it was supposed designedly, always called him Mr. Bruffam, until Brougham, getting angry, wrote the pronunciation of his name in large letters and sent it to the Chancellor by the clerk. Lord Eldon took it in good part, and, at the conclusion of the argument, observed, "Every authority upon the question has been brought before us: New Brooms sweep clean." For the two years preceding 1812, when he got into Parliament, Brougham complained that he was "going down in the world," but when he entered the House of Commons as member for the rotten borough of Camelford, his first effort was considered a failure. Yet before the end of his first session he had conquered a commanding position, had even presented himself as a candidate for the leadership of the Liberal party, and was ever ready to enter the lists with Castlereagh, Canning, or Percival, the leaders of the opposite party. After some brilliant speeches against slavery, and a complete victory over the government, compelling them to rescind the orders in Council, in a speech advocating conciliation with America, and deprecating the impending war between the two countries, there seemed a prospect of his being speedily in office, but it soon vanished, only to be realized after twenty years. He shortly after lost his seat for Camelford, and remained for four years out of the House of Commons. It

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was about this time that Brougham was casually introduced to Caroline of Brunswick, many years afterwards his illustrious client, by Mr. Canning, of whom her profligate husband, the Prince of Wales, is said to have been jealous. Pleased with Brougham's conversation, she asked him to visit her at Blackheath, and, having expressed his sympathy for her wrongs, he received a promise from her that when Queen, he should be her Attorney-General. He also won the confidence of the youthful Charlotte of Wales, who, on the occasion of her elopement from Warwick House, under the idea that her father, the Regent, was going to compel her to marry the Prince of Orange, against her own wishes, sent for Brougham to solicit his advice, which, it was highly creditable to her, that she implicitly followed. Brougham at length got into Parliament again as member for Winchelsea. At last his star was destined to be in the ascendant by the King's death, in 1820, and the proclamation of the Prince of Wales, as George the Fourth, which made Caroline *de jure* Queen of England. Brougham had been remiss in his attention to Caroline's affairs, and had declined to meet her on the continent the preceding autumn; but she kept her promise to him, and, having appointed Brougham and Denman, respectively, her Attorney and Solicitor-General, Lord Chief Justice Ellenborough, though with a most sarcastic smile, was compelled to bid them take their places within the bar, with the rank belonging to their offices. The King's offer to the Queen of £50,000 on condition of her not assuming her proper style and title, or any title belonging to the Royal family, having instantly aroused her to drive

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from St. Omer, and to get with all speed to England, she was met by a Bill, introduced by Lord Liverpool, to deprive her of her prerogatives, rights, and privileges, and to dissolve her marriage with the King. In spite of the suspicions which had entered the mind of Caroline as regards Brougham, she could not, in many respects, have had an abler defender. His cross-examination of Majocchi is considered an unrivalled effort, but the peroration of his speech, which he himself said he wrote over seventeen times, concluding with the prayer to the Peers, "Save the country that you may adorn it,—save the crown which is in jeopardy,—the aristocracy, which is shaken,—save the altar, which must stagger with the blow which rends its kindred throne!" has been severely criticised as a labored composition,—turgid, stiff, and affected. From this great trial Brougham's practice at the bar increased five-fold; the freedom of corporations were offered him in any number in gold boxes; a splendid candelabra was presented him, subscribed for by the pennies of mechanics and peasants, and the head of the Queen's illustrious defender became a common sign for beer shops. The death of Queen Caroline, in the following year, however, obliged him to doff his silk gown and full bottomed wig, and going again in stuff to "take his place in court without the bar accordingly;" and it was not until six years after, on his supporting Lord Canning's ministry, that he was found again "rustling in silk," with a patent of precedence which gave him the same rank as if he had been a King's Counsel. Previous to that year, 1827, he had been in violent opposition to Canning, and such strong words of insult on one occasion had passed between them in the

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House of Commons, that a motion was made to commit them both to the custody of the serjeant-at-arms. The Duke of Wellington having come into power in 1828, Brougham, being reconciled to Lord Grey, co-operated with the Whigs. He now set himself as a legislator with great energy to the cause of Law Reform and Catholic Emancipation; and, at the election of the new Parliament, on the accession of William the Fourth, was chosen member for the County of York. Within a few months Earl Grey was called upon to submit to the King the list of a new administration, and his greatest difficulty now was, "what was to be done with Brougham?" It is said that, having indulged in great sulkiness and sarcasm towards the new ministers, they were compelled to admit him on his own terms, and he then intimated to them that he expected an offer of the great seal, which was accordingly delivered to him by the king, at St. James' Palace, on the 22nd of November, 1830. He took his seat on the woolsack the same night, being created a peer by the title of Lord Brougham and Vaux, on the following day. As Speaker of the House of Lords, he had to fight in the van the whole battle of Lord Grey's two Reform Bills, and in doing so, covered himself with great renown; but much ridicule has been cast on his great scenic performance, when he concluded his speech to the Peers, "I solemnly adjure you,—I warn you,—I implore you,—yea, on my bended knees (he knelt) I supplicate you, reject not this bill." It is said that he knelt some time, as if in prayer; but his friends, alarmed for him lest he should be suffering from the effects of the mulled port, picked him up and placed him

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safely on the woolsack. When Lord Grey, recalled by the king after a very brief interregnum, returned to office, he was at length able, with Brougham's assistance, to pass the great measure through the upper House, by a majority of nine, without the creation of new peers. It was then that Brougham, bearing his blushing honors thick upon him, may be considered to have been at the highest point of his greatness. Both in the House and in the Chancellor's Court he was arrogant and dictatorial. On one occasion, when Sir Edward Sugden was arguing before him, he was writing letters the whole time. At length Sugden said: "I observe that your Lordship is engaged in writing, and not favoring me with your attention." The Chancellor replied: "I am signing papers of mere form; you may as well say that I am not to blow my nose or take snuff while you speak." Sir Edward sat down in a huff. Immensely popular as Brougham had been throughout the country, on account of his conduct on the Reform question, he now got so inordinately puffed up, and behaved with such *brusquerie*, even to the king, that he was not long in setting seal to his doom. Claiming to have had the offer of, and to have declined, the premiership,—which Lord Campbell says he suspects only happened to him in a dream,—he was in the habit of addressing Lord Melbourne, the new premier, as "Lamb," or "William," and of treating the other members of the cabinet as if they were schoolboys, owing their continuance in office and allegiance to him. During the Reform struggle he had been thoroughly backed by "*The Times*," which had been most fulsome in its praise of him; and he had not hesitated to take credit

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for—if he did not inspire—reports of his wonderful performance in getting rid of the arrears in the Court of Chancery when, in fact, there were about two hundred cases awaiting their hearing. Having been called “the most accomplished and brilliant intellect of his age and country,” his deceit and carelessness turned “*The Thunderer*” into a most bitter enemy. He received a note, when sitting in the Court of Chancery, from Lord Althorp, saying, “What I want to see you about is ‘*The Times*,’—whether we are to make war on it or come to terms.” This precious note Brougham tore up, but a reporter picked up the scattered fragments and took them to “*The Times*” office, while it so happened that on the same day, some information, asked by that paper of the government, was abruptly refused. “*The Times*” accordingly “made war” on the Chancellor, exaggerating his peculiarities, criticising his rhetoric, hinting that he was out of his mind, and asserting that there were many arrears in the Court of Chancery. As soon as Parliament was prorogued, Brougham took a tour, or what might be better called a “progress,” in Scotland, and, as if to justify “*The Times*’s” remarks as to the state of his mind, indulged in a series of “high jinks” which brought on his crowning discredit. Going from one Scottish town to another, he was received with ovations, by his fellow-countrymen, as the one man who had borne the Reform Act on his shoulders; but he probably excelled himself most in egotism and rhodomontade at Inverness, where he told the citizens that they had evinced their loyalty to the king by applauding the keeper of his conscience, and assured them that by that night’s post he

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would convey the happy tidings to his majesty; and, viewing himself as the accredited recipient of royal homage, the Chancellor actually composed this fatal missive over tumblers of whiskey toddy, in the presence of a Mr. McPherson, and sent it to Windsor. An objection had been started, before going on his tour, as to his right to take the great seal out of the kingdom, for the ancient law says, that the "*Clavis Regni*" must be in the Chancellor's custody, and kept and used within the realm. But Brougham insisted that, since the union, Scotland was within the realm. The king, who had complained to Lord Melbourne of some of Brougham's speeches as democratical, looked upon the whole matter with amazement and consternation, and declared, privately, that "he could not account for the Chancellor clandestinely running away with the great seal beyond the jurisdiction of the Court of Chancery, except upon the supposition that he was out of his mind, of which there had for some time been strong symptoms." It appears, indeed, that a serious, practical joke was played with the great seal, for, at Rothiemarchus, the residence of the dowager Duchess of Bedford, the sprightly Chancellor had been romping so familiarly with some English ladies that, to be avenged, they hid it where neither he nor his attendants could discover it; but, perceiving Brougham's real distress, they blindfolded him and made him find it by the music of the piano, when the rather important bauble to the executive government of England was dragged from a tea-chest. This awkward adventure of the "*Clavis Regni*" was reported to the queen, and it was to her influence that Brougham attributed the removal of himself

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and the Whigs from office, in the following November; when the Duke of Wellington was sent for by the king to form a new ministry. This charge against him of calumniating Queen Adelaide in an article which concluded with the words, "The queen has done it all," was never contradicted; but "*The Times*" attributed the downfall of the government "to the unbecoming conduct of the Chancellor, traveling about like a quack doctor through the provinces, puffing himself and his little nostrums, and committing and degrading the government of which he had the honor to be a member." With an utter disregard of etiquette and decency,—having heard that the king had spoken of him resentfully, and said he "never wished to see his ugly face again,"—he sent the "*Clavis Regni*" to his sovereign in a bag, as a fishmonger might send a salmon for the royal dinner. At this juncture he also did a very mean and contemptible thing towards his brethren of the bench, which was never forgotten by the profession, particularly as he had had the indecency to describe barristers as "gentlemen who ply in Westminster Hall," as if they had been merely educated peddlers. Lord Lyndhurst having again become Chancellor, the office of Chief Baron of the Exchequer was vacated, and Brougham wrote to Lyndhurst,—his political adversary,—offering to accept that office without any salary beyond his pension as ex-Chancellor. This offer to do the work cheap raised a pitiless storm, which led to Brougham's writing a letter of revocation. The term of Brougham's office of Chancellor extended to four years; and, considering its setting clouds, it is not to be wondered at that, although contrary to

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his own expectation, he never held office again. Within six months Lord Melbourne was back in office, and it was necessary to dupe the Whig ex-Chancellor, so he was told that his majesty's groundless prejudice against him might wear off, and, in the mean time, the "*Clavis Regni*," lest it should wander to Scottish tea-caddies again, was put into the safe keeping of a commission, consisting of Vice-Chancellor Shadwell, Pepys, the Master of the Rolls, and Judge Bosanquet. By way of nursing his retiring dignities, Brougham now assumed a kind of protectorate over Melbourne and the Ministry, an officious interference which created a good deal of ridicule, and, at the end of the session, he retired to his seat in Westmoreland exuberantly gay, and with the profound conviction that he had saved the government. He was, however, rudely shaken out of his tranquillity by a pamphlet of Sir Edward Sugden, afterwards Lord St. Leonards, and then ex-Chancellor of Ireland, entitled, "What has become of the Great Seal?" The Cabinet met and came to a hasty resolution that the commission should be put an end to. Abandoning Brougham, they made Sir Charles Pepys Chancellor and a peer, by the title of Lord Cottenham; and, making no effort to break or soften the intelligence to him, poor Brougham was left to learn his fate from the newspapers. Considering what he had done for the Liberal Party, it cannot be said that he was well treated; and Lord Campbell writes that he said to him, with tears in his eyes, "If Melbourne had treated me openly and kindly, he might have done what he liked with the Great Seal, and we might have remained friends." He was absent from Parliament during

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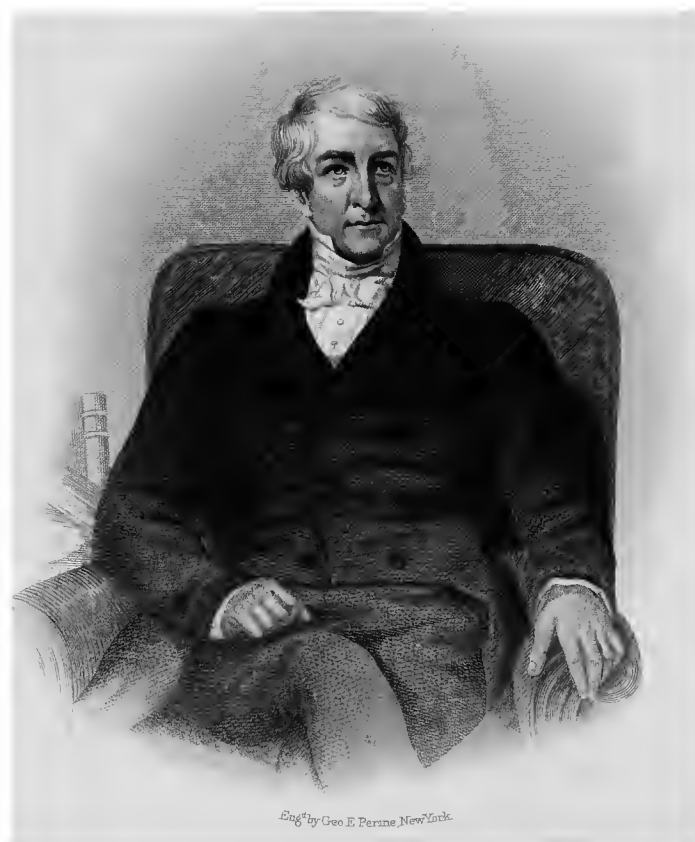
the session of 1836, and returned the following year, in full vigor, to "bide his time." While Parliament was sitting, William the Fourth died, and Brougham thought that Queen Victoria might wish to have him for her chief adviser. She sent, however, for Lord Melbourne; but Brougham continued to sit on the Ministerial side of the House, just keeping up a speaking acquaintance with his quondam colleagues, and secretly vowing their political destruction. He never failed to make an adverse speech, and chuckled with delight at the supposed fall of Melbourne, in August, 1839. The Queen, however, refusing to discharge the ladies of her bed-chamber, as if they were political servants, at Peel's instigation, the Whigs returned to the Ministerial benches in a week, and held office for two more years. From that time Brougham endeavored to exercise a kind of protectorate over all Tory ministers, and had occasional gleams of hope of being recalled by them to the woolsack. He died at Cannes, on the 7th of May, 1868, in his ninetieth year. There is scarcely a subject in history, theology, mathematics, party controversy, criticism, or political economy, on which Brougham did not write one or more dissertations; but, in spite of this marvelous fertility of mind, it is a question whether he established anything like fame in any one. The preservation of his memory to future generations will be more owing to the large space he occupied, while living, in the public eye, than to any grand, legal, or statesmanlike qualities.

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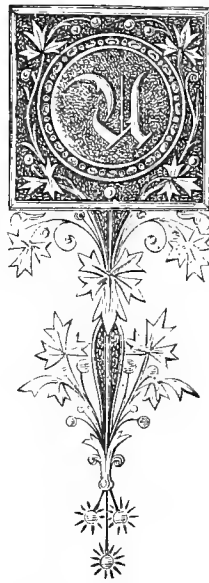
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LORD CHIEF JUSTICE DENMAN.

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LORD DENMAN



UNLIKE his immediate predecessor, Lord Tenterden,—the self-made son of the Barber of Canterbury,—the eminent Chief Justice who is the subject of the present memoir, sprang from an old county stock of English progenitors. His father, Dr. Thomas Denman, after nine years of service as a medical officer in the English navy, established himself as a practitioner in London; and ultimately obtained a reputation as the first accoucheur in the British metropolis. It was eight years from the birth of twin daughters that an addition was made to Dr. Denman's family by the birth of his only son—the future Lord Chief Justice of England—who was born in the Doctor's then residence in Queen street, Golden square—now called Denman street, in his honor—on the twenty-third of February, 1779. The birth of the boy is designated by his father as an “inexpressible blessing,” and he naturally became the object of unusual solicitude and affection. Of the earlier infantile history of this child very little is recorded save that, when about arrived at his third year, the house in Queen street being ut-

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terly destroyed by fire, he was rescued from the flames by his father's intrepidity, and at the imminent risk of his own life. It was only a few months after that occurrence, that, fearing the little fellow would be spoiled by their own indulgence, his parents heroically determined to separate him from themselves for his own good, and to send him at that early age to a boarding-school. This resolution on their part turned out one of the most important events in his life. The care and entire guidance of his youthful mind was intrusted to a lady who was distinguished for her wonderful educational powers, and who, both in her school and in her writings, exercised at the time a kind of office of high priestess over the juvenile training of the children of the upper and middle classes in England. To the school of Mrs. Barbould, at Palgrave, near Diss, in Norfolk, the child was accordingly sent, where his natural powers, and especially those of memory and elocution, were encouraged and developed, and he soon became a little prodigy of learning. Mrs. Barbould reports of him: "I do not know a sweeter child;" and at five years old he writes verses, "has already begun Latin, has an excellent memory, and delights in learning." To the four years spent at Palgrave, and to the care of "my dear old instructress," Lord Denman himself attributed, in after life, the force of his memory, his love of literature, and the clearness and power of his elocution. In his mother, also, who was a believer in the then prevalent notions of human perfectibility, and who had drawn up forty-six rules for the minute guidance of her own daily life, he had the assistance of a religious and well-trained mind. In compliance with the expressed

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wish of this beloved parent it is said that, from boyhood to his death, he never omitted to read daily a chapter in the Bible. Before the completion of his tenth year, Dr. Denman sent the boy to Eton, where, no doubt, he went through his ordeal of a "fag," duly "fagging" others in his turn; but the records of his career at this period are scanty, and such as exist are barren of interest. In his thirteenth year he is noticed for a singular proficiency in Latin, and a taste for music. In his eighteenth year, having passed seven years at Eton, he matriculated at St. John's College, Cambridge, and entered upon a residence of four years, which terminated in February, 1800. His course at the University, however, was nothing exceptionally brilliant, and he left it with only an ordinary degree, to the great disappointment of his father and sister, Mrs. Baillie, who both expected him to come out a Wrangler. To the latter he had written two years before, "You need not be afraid of my applying too intensely to mathematical studies; I was never too fond of them." And after his failure to obtain honors, he again writes, "All my views of ambition are at an end, and you must be content to see poor Tom Denman merely as a brother, without any medal to adorn him, or any honors to recommend him." Among Denman's intimate college friends were Launcelot Shadwell, afterwards Vice Chancellor of England, who left the University at the same time, with brilliant honors, and John Hermon Merivale, afterwards Commissioner of Bankruptcy. With the latter, on his return to London, he took rooms and commenced his legal studies as a pupil of that eminent real property lawyer, Charles Butler. At the University he

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is said to have employed much of his time in reading histories of chivalry and romance; and he ever retained a wonderful taste for the drama; even when a judge on circuit, never failing to do all he could to assist the local drama at the various assize towns. His physical appearance at this period of his life, was that of "a gentleman in a remarkable degree," and with the striking expression of one born to command; while he is described as free from all affectation, and possessing a very winning combination of gentleness and power. Even as a boy at school, Denman, who was fond of political discussion, displayed that love of liberty, and abhorrence of political oppression which he felt so strongly in after life. He was wont to attribute his liberal political opinions to the influence of his first teacher, Mrs. Barbauld, and although at the cost of many sacrifices, he cherished the same principles to his death. His father having taken chambers for him in Lincoln Inn, he now became the pupil of Mr. Dampier, afterwards Justice of the Court of King's Bench, and tutor of the two Chancellors, Cottenham and Campbell. On December thirteenth, 1803, his mother records that, he was appointed the special pleader of Mr. Alexander, an attorney in large practice. About the same time the young lawyer became entangled in the toils of love, with the beautiful sister of a college friend, to whom, within a year, he was married.¹ Miss Theodosia Anne Vevers was a young lady rich in graces and virtues, the daughter of a country clergyman in Leicestershire, and highly connected on her mother's side; but without fortune either in possession or prospect. Denman says, in one of his letters, "My

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own feelings make me confident that we shall love one another well enough to live happily on a little," and for many years there is no doubt that their circumstances were considerably straitened, while they gladly received an annual assistance from Dr. Denman of four hundred pounds. As a husband and father Denman ever bore the highest character for indulgence and tenderness. His sister relates, that it was a pleasure to see him in the midst of his children, nursing the babies, and playing with the older ones, and their friend and companion as they grew older. On May 9th, 1806, he was called to the bar by the Hon. Society of Lincoln Inn; and joined the Midland Circuit, and Lincolnshire Sessions. His charming temper and conversational qualities soon gained him friends, and he shortly writes, that he had had a prosperous Session, and held four briefs at Derby. His sufficient legal attainments were greatly assisted by a commanding figure, a magnificent voice, and powerful and impressive style. There are some very amusing entries in the circuit book respecting him, a book of record which might be called the "Nemesis of the Legal Mess Table." He is presented "for wearing nankeen trousers at a Circuit Court" (the proper costume being a black dress suit), "for saying in open court that no wise man would ever think of going to law;" "for dancing with seven attorney's daughters at Derby Ball," and "for traveling the circuits in stage coaches and without a servant," for each of which a fine of one guinea is imposed. Again, years after, we find him presented "for advertising for business by telling an attorney where his lodgings were situated;" and, in the Spring Circuit, 1815, there is this en-

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try :—" Mr. Denman is congratulated on being attended by his wife at Northampton, and condoled with on her departure thence. Fine (as usual) one guinea." One of Denman's earliest retainers was connected with Lord Cochrane's election for Westminster, whom Lord Ellenborough sentenced to a fine of £1,000, and to stand an hour in the pillory, although the latter part of the sentence was not carried out. In the latter part of 1816 he was appointed Deputy Recorder of Nottingham, and was soon being gradually lifted out of mere provincial fame. In the same year he undertook the defense of Brandreth and other Luddite prisoners accused of high treason, machine breaking, and rioting of that kind, which is described by Charlotte Brontë in her novel of "Shirley." He did his utmost to save them from their fate, arguing that they had never levied war against the king; but they were found guilty, and the barbarous sentence for high treason, including beheading after death, and only remitting the quartering as a special favor, was duly executed. Having made one previous attempt to get returned to Parliament for Nottingham, Denman eventually took his seat in the House of Commons for the Borough of Wareham on the 14th of July, 1819; but his early career in the legislature did not bear out the hopes of his friends, or meet the anticipations of the chiefs of his party. He showed himself, however, always forward and fearless in denouncing all jobbery and corruption, and all oppression at home and abroad, and particularly the crowning iniquity of the African slave trade; while his contributions to the progress of law reform were always well considered and in the

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right direction. It was within a year of his entrance into the legislature that his engagement in the great State trial of Queen Caroline of Brunswick raised him to a high pinnacle of fame, constituting him one of the most renowned lawyers and popular men in England. Poor Caroline having become the wife of the Prince of Wales in 1795, after one year of cohabitation, was obliged to take a different path in life, and to leave her royal husband to his unbroken course of bare-faced and notorious profligacy. She eventually left England for foreign travel in 1814, and, after visiting Egypt and the Holy Land, spent a considerable time on the continent of Europe. Upon the question of her actual guilt opinions very much differ; but there is no question that her conduct ran to the very verge of imprudence, that she liked the society of low associates, and altogether conducted herself in a way which would have been no credit to any lady in the land, and in a queen was especially reprehensible. In the year 1818, at the instigation of Sir John Leach, then Vice-Chancellor of England, a great favorite of the Prince Regent, and a rival of Lord Eldon, the Chancellor,—whose office he coveted,—a secret commission was authorized by the Cabinet to proceed to Milan, and inquire into the various acts of immorality charged against the queen, and especially into the facts of an alleged adulterous intercourse with her Italian chamberlain, Bergami. On the 11th of February, 1820, a fortnight after the decease of George the Third, and the accession of the Prince Regent to the throne, the name of the Queen was by a solemn order of the Council directed to be omit-

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ted from the Liturgy. This act, the crowning point of a series of petty persecutions, induced the queen to brave all risks and to return to England to clear her character and claim her rights. Her case was particularly espoused by the famous Alderman Wood, father of the late Lord Chancellor, Lord Hatherley; and Mr. Brougham, who had been appointed her legal adviser, having been officially created her Attorney-General, at this time asked Denman to act as Solicitor-General of the queen, of the duties of which office he was punctually reminded by a retainer which was regularly placed at the door of his chambers by a clerk from Coutts' Bank. Brougham was by no means desirous that the queen should return to England; having hopes that he could obtain her £50,000 a year and all the rights of a queen consort if she would remain abroad. From the very first moment of her arrival she showed a preference for Denman over Brougham, whose brusque manners no doubt contributed not a little to put him out of her favor. She even said on one occasion, "If my head is upon Temple Bar, it will be Brougham's doing." On her arrival in London there was hardly a well-dressed person to meet her in the crowd, and the queen of England was conveyed in a hack conveyance to her miserable residence in Portman Street, amid the applause of a very inferior mob. The Green Bag Papers having arrived, an attempt was made to secure an amicable arrangement. This conference having failed, a resolution was proposed in the House of Commons declaratory of the desire of the queen to acquiesce in the opinion of Parliament. In the course of the debate which ensued, Denman, with the

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deepest and most solemn pathos, said, in reference to her name being struck out of the Liturgy, that Her Majesty was at least included in the prayer, "for all that are desolate and oppressed." The trial commenced on the 17th of August, and on the following day Denman made a powerful address against the second reading of the bill to the Peers. Exhausted with his labor, he afterwards repaired to the queen's lodgings, where, lounging upon one sofa, and having flung his wig on another, Her Majesty relieved his distress at the liberty he had taken with her room by laughingly saying, "It is indeed a most unbecoming familiarity," and then announced her approval of his efforts on her behalf by the words, "My God, what a beautiful speech." So thoroughly was Denman recognized as being on the side of the people against a dissipated and unprincipled king, that going for a week's holiday to Cheltenham, the populace on his arrival drew his carriage for nearly a mile, and would not be satisfied, amid shouts of "Queen," until he had made them a speech. In the October following, the Court of Peers resumed their sittings, and in Denman's speech on that occasion his comparison between Caroline of Brunswick, and Octavia, the innocent Bride girl of Nero, led to Carlton House being called "Nero's Hotel;" an offense for which George the Fourth must have ever retained a very lively memory, for within nearly a year of his death he writes to the Duke of Wellington, "I must express a hope that this will be the last time that I shall be troubled relative to Mr. Denman, as no consideration shall ever induce me to admit that individual into my presence." In consequence of Denman's able profes-

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sional advocacy of the queen he had to see all his juniors at the Bar passed over his head, and remained for twenty-two years with a stuff gown. He had, however, been appointed Common Sergeant of the City of London, which gave him a certainty in the way of a competency, and he held that post until, under Lord Grey's ministry, he was appointed Attorney-General. In that office, under the instructions of the committee, consisting of Lords Durham and Duncannon, Lord John Russell and Sir James Graham, he drew the great constitutional act, which has made that administration memorable, and a copy of it has been preserved indorsed "Original Reform Bill drawn by Mr. Denman." At length, on the sudden death of Lord Tenterden, who had been Chief Justice of the Court of King's Bench for fourteen years, and on Lord Brougham's instant and urgent suggestion, Denman was sworn in at the Privy Council on the 6th of November, 1832, as Lord Chief Justice of England, the king, after a short struggle assenting to the appointment. When presiding on the Norfolk Circuit, at the Spring assizes of 1834, Sir Thomas Denman received a letter from Lord Grey intimating the desire of the Government to elevate him to the Peerage, the Lord Chancellor having particularly expressed an anxious desire to obtain his assistance in the House of Lords. Aware that William the Fourth might still retain no very pleasant memory of his famous apostrophe, "Come forth, thou slanderer," addressed to him when Duke of Clarence, in his great speech on the trial of Queen Caroline, Denman requested in his reply that Lord Grey would withdraw the offer if it would prove un-

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acceptable to the king, for he said, "Nothing would give me more pain than to cause any difficulty in conducting the administration." The Sailor King, however, at once assented in the most gracious manner, and expressed himself in terms of praise of Denman's conduct since he had been Chief Justice. On the 22nd of March the London Gazette consequently announced that letters patent had passed the Great Seal creating Sir Thomas Denman, Kt., Chief Justice of the Court of King's Bench (and his male heirs lawfully begotten), a Baron of the United Kingdom, by the title of Baron Denman of "Dovedale," which is one of the most lovely spots in the beautiful county of Derby, and in close vicinity to the Town of Bakewell, where his grandfather, Dr. John Denman, had led a struggling life of professional industry as a medical practitioner. Not having communicated Lord Grey's offer to his wife, the news of his elevation was first conveyed to Lady Denman by Lord Brougham. She replied in a short note expressing great surprise, and inquiring whether her husband was coming to town. To this Brougham sent the following quaint reply: "I see the Chief Justice is well worthy of promotion to be an hereditary councilor, for he can keep a secret. He will not, I suppose, be in town any the sooner for being a lord." The new peer seems to have been full of fun on the occasion, addressing his daughter as "Dear and Honorable Fanny," and commencing a letter to his wife, "I will not address you as I intended, 'my Peerless Peeress,' because that might look as if you had lost your new-made peer." Although he thus received his new and well-earned dignity

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with his usual cheerful sanguineness, it was always felt by himself and family that the want of a fortune to support a Peerage, necessitating a change of residence, and to some extent alterations in his style of living, constituted no little drawback from the pleasure of his elevation. He writes on the occasion to another daughter, "My lot has indeed been fortunate; far above my talents or merits of any kind. But there is one merit of a kind entirely within one's own command—the determination to do what is right, whenever that can be discovered." In the autumn of the same year, the entire Whig Cabinet resigned, and were succeeded by the administration of the Duke of Wellington. On that occasion for a fortnight, Lord Denman, as is customary with the Lord Justices of England, when the office is vacant, held the seal of the Chancellor of Exchequer, until the return of Mr.—afterward Sir Robert—Peel, who was at the time on the continent. In the Parliamentary session of the following year—1835—Denman, during the period that the great seal was in commission, acted for some months as ex-officio speaker of the House of Lords. On the occasion of Lord Brougham presenting his celebrated Fourteen Resolutions to the House for the establishment of an Education Board, the Chief Justice addressed the Lords in a very impressive speech, in the course of which, alluding to the connection between ignorance and crime, he said that, "He doubted how far the state was justified in inflicting punishment for offenses against which it had taken no means to guard." For nearly four years from the commencement of 1837, Lord Denman was engaged in a most important

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struggle, which occurred between the House of Commons and the Legal Bench of England. This memorable conflict arose out of the case of *Stockdale v. Hansard*, the printer of the Parliamentary papers, and concerned the great question of the privileges of the House. A report had been made in the year 1836 by the Inspectors of Prisons, to the House Secretary, and ordered by the House of Commons to be printed, in which the Inspectors complained that they had found a work published by one Stockdale, which they characterized as an obscene book, in the hands of the prisoners in Newgate. Stockdale claimed that the book in question was purely a scientific one, and brought an action against Messrs. Hansard for libel. It was contended, on behalf of the Hansards, by Sir John Campbell, the Attorney-General, that the publication of the Inspector's report was privileged. The Chief Justice, in his charge, said: "I am not aware of the existence in this country of any body whatever, which can privilege any servant of theirs to publish libels on any individual; if that point were to be left unsatisfactorily explained, the Judge might become an accomplice in the destruction of the liberties of his country, and expose every individual who lived in it to a tyranny no man ought to submit to." The House of Commons was infuriated, and passed resolutions asserting that it had the sole right to determine the extent of its own privileges, and that any action or suit before any court or tribunal to decide upon such matters of privilege or bring them under discussion, was a high breach and contempt of the privileges of Parliament, rendering all concerned amenable to the just displeasure and punishment of the

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House. Stockdale having brought a second action, the case came by demurrer before the full Court of Queen's Bench, when the Chief Justice delivered a written judgment, in which he said: "This is a claim for an arbitrary power, to authorize the commission of any act whatever on behalf of a body which, in the same argument, is admitted not to be the supreme power in the State. The supremacy of Parliament, the foundation upon which the claim is made to rest, appears to me completely to overturn it, because the House of Commons is not the Parliament, but only a co-ordinate and component part of the Parliament. This proposition, therefore, is absolutely untenable and abhorrent to the first principles of the Constitution of England." Messrs. Hansard having been levied on by the Sheriffs for six hundred pounds, Stockdale and his attorney were both arrested by order of the House; and the Sheriffs, who were ordered to return the moneys having failed to do so, were committed to the custody of the sergent-at-arms. Lord John Russell at length got the House to pass an act, entitled "The Printed Papers Bill," by which the unfortunate collision was terminated. But the dignity and firmness displayed by Lord Denman endeared his name greatly to the people of England. Having held the office for over thirteen years, this "great and good" Chief Justice was at length compelled, by a third attack of paralysis, to resign it in 1850. His only regret was, that he had not the appointment of his successor, who proved to be Lord Campbell, with whom he had had serious differences of opinion.

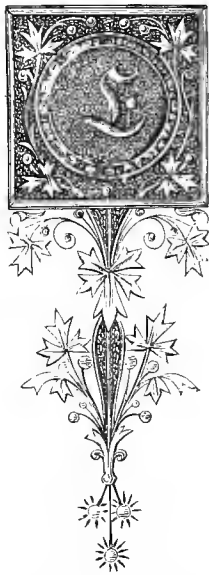
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EDWARD LAW, the first Lord Ellenborough, and great Chief Justice, was the younger son of Dr. Edmund Law, Bishop of Carlisle, an eminent prelate of the Church of England. He was born at the parsonage of Salkeld, of which his father was rector, on the 16th of November, 1750. Dr. Law was a particularly mild and studious divine, with a tranquil voice, which he never raised; but it is said that Ellenborough, who resembled his mother in features, also inherited from her many other qualifications. At all events, he was notorious for his irascibility at an early age, and little Ned bore the reputation of being a very naughty boy. He spoke his native dialect with great force, and retained his Cumbrian pronunciation to his dying hour. Having been for a short time at a school at Bury St. Edmunds, he was removed to the foundation of the Charter-house in London, of which school he eventually became captain; and where, by the special directions of his will, he lies buried. At this period of life he was distinguished for good-nature, but was burly and bluff, exhibiting a mixture of arrogance with

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bonhomie. At eighteen he went to Cambridge, and entered Peterhouse, of which his father was master, as an undergraduate. He was there distinguished for his industry and self-denial, and for an overbearing love of sarcasm. He left the university as third wrangler, and had among his life-friends who were fellow-collegians, Vicary Gibbs, Le Blanc, and Lawrence, his after-associates on the Bench. He was noted for thoroughly enjoying himself in society, and said, "the greatest struggle he ever made was in leaving a pleasant party and retiring to his room to read." Although urged to go into the Church, and with unusually good prospects,—his elder brother became Bishop of Elphin,—he preferred the profession of the law, and entered as a student of Lincoln's Inn on the 10th of June, 1769. He then entered himself as the pupil of the celebrated George Wood, on whom Lord Mansfield made the great special-pleading joke, that "his horse was 'demurring' when he should have 'gone to the country.'" He became soon famous at debating clubs, and for a particular oration which he delivered at Coachmakers' Hall. A great deal of business now flowed in upon him as a special pleader under the Bar, which was greatly owing to his charging such small fees for answering cases. At *Nisi Prius*, years afterwards, when an attorney was overruled by him, he was greeted on the Bench with the observation, "My Lord, although your Lordship is a great man now, I remember when I could get your opinion for five shillings." By the time he had continued this drudgery for five years he was making a handsome income, and in Hilary term, 1780, he was called to the Bar at Lincoln's

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Inn, and joined the circuit at York. His rough manners frequently got him into altercations with his opponents and with the Bench; but in spite of them, after wearing a stuff gown for seven years, he found himself rapidly getting ahead of his seniors. Freely indulging in the gallantries of the age, like the Lord Chancellor, he had kept a mistress; but taking a fancy to the beautiful Miss Towry, daughter of the Commissioner of the Navy, he proposed to her. In spite of his ungainly figure and awkward address, he prevailed, and was married to that lady on the 17th of October, 1789. Her grace and beauty were so conspicuous that it is said that crowds would collect outside his house to see her water her flowers. His ambition now led him sensitively to feel that without any London practice his fame was merely local, and he became despondent. He was, however, just on the verge of the grandest opportunity that ever presented itself to an aspiring barrister, and of attaining a position which was even more important to him than his subsequent elevation to the Chief Justiceship. He received a general retainer for Warren Hastings, whose trial, beginning in one reign was ended in another, was carried over two generations of peers, and engaged the attention of all the greatest orators and statesmen of the time. Law was appointed leading counsel. He retired to a cottage at Windermere to study the Rohilla war, the spoliation of the Begums, and the cruelties of Debi Sing, and to make notes,—as was his wont,—on scraps of paper of what he should say. The scene in Westminster Hall, before Lord Chancellor Thurlow and the ermined peers, was gorgeous in the

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extreme. Law, opposed to the indignation of Fox and Burke, had a great struggle to induce the Lords to abide by the rules of evidence followed in the courts below, and frequently had to repeat the question, "Why do you summon the judges of the land to assist you?" Twenty-three times the peers retired to refer questions to the judges, whose advice they always took. The trial commenced on the 15th of February, 1788, and finished on the 23rd of April, 1795; and during its progress, there were constant passages between Law and the Parliamentary managers. Burke was particularly mad at the rejection of evidence of the alleged cruelties of Debi Sing and the spoliation of the Begums, and accused Law repeatedly of using insolent observations, and told the Peers that the counsel did not deserve an answer. He did his duty, nevertheless, in a manly and effective manner; and, on the one hundred and forty-fifth day of the trial, was gratified by a verdict of acquittal for his client. His fees during the whole of the trial only amounted to three thousand pounds, but it attained him the foremost position as an advocate. On the breaking out of the French Revolution, Law went over to the Tories with a large body of Whig alarmists. He was shortly after appointed Attorney-General of the County Palatine, and was employed in the State prosecution at Manchester of a Mr. Walker, and others, for conspiring to overthrow the Constitution, and to assist the French to invade England. On this trial Erskine was special against him. A point arising about the admissibility of a printed paper, Erskine theatrically exclaimed, "Good God, where am I?" *Law* (with affected composure): "In a

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British court of justice." *Erskine* (indignantly): "How are my clients to be exculpated?" *Law* (in a still quieter tone): "By legal evidence." *Erskine* (much excited): "I stand before the people of England for justice." *Law* (bursting out furiously): "I am equally before the people of England for the protection of the people of England; if you rise in this tone I can speak as loudly and as emphatically; there is nothing which has betrayed improper passion on my part; but no tone or manner shall put me down." In the course of the trial the rivals were reconciled. He also won great applause at the trial of Lord Thanet and Mr. Ferguson, for assisting in the attempt to rescue Arthur O'Connor, and had now distanced all his competitors on the Northern Circuit, being known by the title of "the almighty of the north." It was then that, in his fifty-first year, he rose like an aeronaut. Mr. Pitt having stepped down from the premiership, Mr. Addington, the new minister, sent for him and offered him the attorney-generalship, saying, that in two days he would expect an answer. *Law* replied, "I shall think myself disgraced if I took two days, two hours, or two minutes to deliberate upon it; I am yours, and let the storm blow from what quarter of the hemisphere it may, you shall always find me at your side." Attending the king,—who had recovered a state of derangement,—in his closet, to kiss hands and be knighted, George the Third said: "Sir Edward, Sir Edward, have you ever been in Parliament?" And being answered in the negative, added: "Right, Sir Edward, quite right, Sir Edward, for now when you become my attorney-general, Sir Edward, you will not eat your own

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words, Sir Edward, as so many of your predecessors have been obliged to do, Sir Edward." He was now returned for a close Borough, and took his seat in the House March 2nd, 1801. He was, however, by no means a skillful debater, and his principal speeches in the House of Commons were upon measures of coercion as regards Ireland. During the short period he was first law officer, he had the conduct of a very memorable prosecution, that of Joseph Wall, Governor of Goree, on the coast of Africa, who had sentenced Benjamin Armstrong, a sergeant and ringleader in a rebellion, to three hundred lashes, in the course of the administration of which brutal punishment, he died. Governor Wall fled to France, but afterwards surrendered himself, and was tried by special commission. Sir Edward showed a determined resolution to convict the prisoner, who was hanged on a gibbet in front of the jail of Newgate, amidst the shouts and execrations of the most numerous mob ever assembled in England to witness an execution. On the death of Lord Kenyon, in April, 1802, Mr. Addington, with the King's approval, offered Sir Edward Law the Chief Justiceship, and his majesty also approved the suggestion that he should at the same time be raised to the Peerage. He took the title of Ellenborough from a little fishing village in Cumberland, in which his mother's family had, for generations, held property. On the Bench he proved himself to be incorruptible; but, although anxious to avoid, as a judge, the faults of Lord Kenyon, he probably dealt out quite as many rebuffs and sarcasms, and was equally arbitrary. In supporting the Volunteer Consolidation Bill, Lord Ellenborough very stoutly defended, in the

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House of Lords, the prerogative of the King to call out the whole population for the defense of the Realm, and said, "No individual who bears the semblance of a man, who values his country and his domestic ties, and who knows his duty to fight body to body, *pro aris et focis*, will stickle about the mode in which his energies can most advantageously be brought into action." His martial ardor appeared the more wonderful from his being attired, when speaking, in a silk gown and judicial wig, which is no longer customary with chief or other justices sitting as Peers. His appearance and manner, when delivering sentence of death, were particularly dignified, impressive, and awe-inspiring, especially when, as occasion required in the cases of Colonel Despard and other traitors, he came to the dreadful enumeration of the barbarities which the law at that time adjudged to be inflicted. On the death of Mr. Pitt, Lord Ellenborough declined the office of the chancellorship, made to him by Mr. Addington, now Lord Sidmouth; but he became a cabinet minister, although the constitutionality of a chief justice acting in that capacity is very questionable. Lord Ellenborough had a violent hatred for libelers, and did all in his power to convict Leigh Hunt, the Editor of the *Examiner*, who was prosecuted for an article against flogging in the army, but, to his great mortification, the jury brought in a verdict of not guilty. The manner in which public prosecutions for libel were carried on at this time was a great disgrace to the government, and the subject was eventually brought before the House of Lords. On that occasion Lord Ellenborough got the title from Lord Stanhope of the "Vituperative Chief

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Justice," and concluded his speech with the following words: "Were I to die next moment, I will not yield to violence. My abhorrence of the licentiousness of the press is founded on my love of civil liberty. The most certain mode of upsetting our free constitution is by generating a groundless distrust of the great officers of justice, and teaching the people to despise the law along with those who administer it. I repeat that I know nothing more mischievous in its tendency than inoculating the public mind with groundless apprehensions of imaginary evils." On another occasion, when attacked by Earl Grey for something he had said on a previous evening, who said that the question had been brought forward in the "proud display of a noble and learned Lord," the Chief Justice said: "I rise, my Lords, to repel with indignation the base and calumnious imputation against me by the noble Earl, of having falsified a document, namely, the Petition of the City of London to Edward I. I hold in my hand a copy of that document, and its contents will show how unjustly I have been attacked." Having read it in a loud and angry voice, he added in a very softened tone, as he was about to resume his seat: "I thought it due, my Lords, to my own character to make this explanation, and I trust that I have done it without any asperity of language. (A loud laugh from both sides of the House.) That laugh awakens a sentiment in my mind which I will not express. All I shall say is, that a man who is capable of patiently enduring the imputation of having falsified a document is capable of that atrocity." There can be but little question that the overbearing and excitable disposition of Lord Ellen-

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borough hastened his end. Juries at length rejoiced to return verdicts in opposition to his dictation. On the trial of Dr. James Watson for high treason, which lasted seven days,—whom he had done his utmost to get convicted,—he asked the jury if they desired refreshments before retiring. His countenance visibly collapsed as the foreman replied, “We shall not be long, my Lord,” and, without retiring at all, they immediately returned a verdict of “not guilty.” It was, however, the trial of William Hone, for three parodies, claimed to be offensive, on George the Fourth, which terminated his legal existence. The enfeebled Chief Justice would insist on presiding, and, at the conclusion of his charge, said: “I will deliver to you my solemn opinion, as I am required by Act of Parliament to do. Under the authority of that Act, and still more in obedience to my conscience and my God, I pronounce it to be the most impious and profane libel. Hoping and believing that you are Christians, I doubt not that your opinion is the same.” The usual question being put when the jury, after a short deliberation, returned into Court, the Chief Justice had the mortification to hear the words “not guilty” pronounced, followed by a tremendous burst of applause, which he did not even attempt to quell. His resignation followed shortly after, the execution of which cost him a deeper pang than drawing his last breath; and within a month afterwards he calmly expired at his house in St. James’s Square, on the 13th of December, 1818. In spite of his bad temper, cruelty, and arrogance, his learning, vigorous intellect, intrepidity, and unspotted integrity, point to him as one of the greatest of English Judges. He lived in an age when every page of

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England's Statute Book smelled of blood, and when the Episcopal Bench, and the wisdom, worth, and learning of the judgment-seat, combined to uphold a system utterly irreconcilable with Divine Revelation. The dread archon of Athens was far outstripped in needless severity by the ministers of that religion whose Divine Author had supplanted the Judaical "*lex talionis*" by the holy principle of forgiveness of injuries, when they rendered their legislative aid to retain on the blood-stained statute book the law which extended Christian England's universal panacea for crime to the theft of a pocket-handkerchief by a hungry boy. Who can realize the fact that it is only two generations since England hanged for the theft of one shilling; for a sheep; for a horse; for cattle; coining, witchcraft, and forgery; or that in the last century, one hundred and fifty offenses were statutably capital! Yet even with these Lord Ellenborough was not satisfied, and he introduced a bill to make ten new felonies capital, and was as much shocked at a proposal to repeal the punishment of death for stealing to the value of five shillings in a shop as if it had been a proposal to abrogate the ten commandments. On the occasion of the introduction of the bill for this terrible innovation into the House of Peers, after speaking of it as pregnant with danger, he said: "My Lords, if we suffer this bill to pass, we shall not know where to stand,—we shall not know whether we are on our heads or on our feet. If you repeal the Act which inflicts the penalty of death for stealing to the value of five shillings in a shop, you will be called upon next year to repeal a law which prescribes the penalty of death for stealing five shillings

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in a dwelling-house, there being no person therein,—a law, your Lordships must know, on the severity of which, and the application of it, stands the security of every poor cottager who goes out to his daily labor. He, my Lords, can leave no one behind to watch his little dwelling and preserve it from the attacks of lawless plunderers; confident in the protection of the laws of the land, he cheerfully pursues his daily labors, trusting that on his return he shall find all his property safe and unmolested. Repeal this law, and see the contrast; no man can trust himself for an hour out of doors without the most alarming apprehensions that on his return every vestige of his property will be swept away by the hardened robber. My Lords, painful as is the duty,—anxious as the feelings of a Judge are,—unwilling as he is to inflict the tremendous penalties of the law,—there are cases where mercy and humanity to the few would be injustice and cruelty to the many. There are cases where the law must be applied in all its terrors. My Lords, I think this, above all others, is a law on which so much of the security of mankind depends in its execution, that I should deem myself neglectful of my duty to the public if I failed to let the law take its course.” Lord Ellenborough was equally opposed to every improvement of the law of Debtor and Creditor, and foretold the utter ruin of commercial credit and the Empire, should the right of arresting on “*mesne*” process ever be taken away, or the fatal principle of “*cessio bonorum*” be recognized in the country, so that an honest insolvent might be discharged from prison on yielding the whole of his property to his creditors. Perhaps no Judge, on his retirement

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from the Bench, ever received from the head of the State so graceful and complimentary a letter as that in which George Prince Regent, eulogized him, saying: "My Lord, your career, since the moment you took your seat, and presided in the high court committed to your charge can admit of but one sentiment and but one opinion; it has been glorious to yourself, and beneficial to the nation. You have afforded an example combining wisdom with every other talent and virtue, which exalt your character, and place it beyond all praise." It has been said that Ellenborough was not a man of ambition, and still less of vanity, but that he was a thorough lover of strict justice; and it might have been added, that the justice of his age was as brutal as it was strict, utterly ignoring Shakespeare's words, that "earthly power doth then show likest God's when mercy seasons justice." His funeral, at the cemetery of the Charterhouse, was attended by all the dignitaries of the law, eminent statesmen, and distinguished men of the day, and its effect was rendered more solemn by a dense fog which only permitted to the eye a dim glimpse of the procession. Some excellent stories have attached themselves to Lord Ellenborough's name, of which we quote the following: A young counsel who had the reputation of being a very impudent fellow, but whose memory failed him when beginning to recite a long speech which he had prepared, having uttered these words,—*"The unfortunate client who appears by me,—the unfortunate client who appears by me,—My Lord, my unfortunate client,"*—the Chief Justice interposed, and almost whispered in a soft and encouraging tone,—*"You may go on,*

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Sir,—so far the court is with you.” A counsel arguing before a full Court thus began his erudite harangue,—“An estate in fee simple, my Lords, is the highest estate known to the law of England.” “Stay, stay,” said the Chief Justice, with consummate gravity, “let me take that down.” He wrote and read slowly and emphatically, “An estate,—in fee simple,—is,—the highest estate,—known to,—the law of England;” adding, “Sir, the Court is much indebted to you for the information.” A Quaker coming into the witness-box at Guildhall without a broad brim or dittoes, and rather smartly dressed, the crier put the book into his hands and was about to administer the oath, when he required to be examined on his affirmation. Lord Ellenborough, asking if he was really a Quaker, and being answered in the affirmative, exclaimed, “Do you really mean to impose upon the Court by appearing here in the disguise of a reasonable being?” A witness dressed in a fantastical manner having given very rambling and discreditable evidence, was asked in cross-examination, “What he was?” *Witness*: “I employ myself as a surgeon.” *Lord Ellenborough, Ch. J.*: “But does any one else employ you as a surgeon?” On one occasion the Chief Justice was going on Circuit, when Lady Ellenborough said that she should like to accompany him. He replied that he had no objection, provided she did not encumber the carriage with bandboxes, which were his utter abhorrence. During the first day’s journey, Lord Ellenborough, happening to stretch his legs, struck his foot against something below the seat. He discovered that it was a bandbox. Up went the window and out went the bandbox. The coachman stopped,

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and the footman, thinking that the bandbox had tumbled out of the window by some extraordinary chance, was going to pick it up, when Lord Ellenborough furiously called out, "Drive on!" The bandbox, accordingly, was left by the ditch side. Having reached the county-town where he was to officiate as Judge, Lord Ellenborough proceeded to array himself for his appearance in the Court House. "Now," said he, "where is my wig,—where is my wig?" "My Lord," replied his attendant, "it was thrown out of the carriage window." Lord Ellenborough amassed a large fortune, and left two hundred and forty thousand pounds to his family. His son, only a few years deceased, became distinguished as a statesman, and, as Governor-General of India, contributed greatly to the honor of his distinguished name.

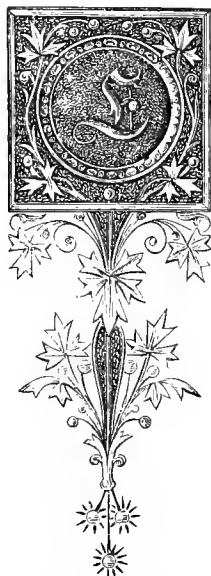
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EDWARD LITTLETON, the subject of this memoir, was of an ancient family of the robe. He was born at Mounslow, in Shropshire, in the year 1589, being the eldest son of Sir Edward Littleton, of Hewley, in the same county, likewise of the profession of the law, having been one of the Justices of the Marches, and a Judge of North Wales. Young Edward Littleton was educated at a provincial grammar school till he was sent to Oxford, and entered a gentleman commoner at Christ Church. Here he applied very diligently to study, and in 1609 he took the degree of Bachelor of Arts, having gained great applause for his proficiency in logic and in classical learning. Being removed to the Inner Temple, he devoted himself to the Year Books and antiquarian lore. He was a bosom friend of Selden, and for some years they carried on their studies in common, often going together to the Tower of London, there to regale themselves with a smell of ancient parchment. He continued at the same time to keep up an acquaintance with more elegant pursuits. He was a famous swordsman, and he showed in his youth a taste

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for the military art, which afterwards broke out in maturer years, and placed him at the head of a regiment,—with the Great Seal in one hand, and a pike in the other. But he was determined to rise by his profession, and when he was called to the Bar he was reckoned the best grounded common lawyer which his society had sent forth for many years. He soon rose into very extensive practice. In 1626 he was returned a member of the House of Commons, and eagerly joined the patriotic party then struggling against the ascendancy of the Duke of Buckingham, and he took an active part in supporting the impeachment carried on against that powerful favorite. He again sat in Charles's third parliament, called in 1628, and fought zealously for the cause of liberty. He was chosen chairman of the committee which examined into grievances since the preceding dissolution, and prepared the "Petition of Right." He moved four resolutions, which were unanimously agreed to by the House:—1st, "That no freeman ought to be committed or detained in prison, or otherwise restrained by command of the King or the Privy Council, unless some cause of the commitment, detainer, or restraint be expressed, for which by law he ought to be committed, detained, or restrained."—2ndly, "That the writ of habeas corpus can not be denied, but ought to be granted to every man that is committed or detained in prison, or otherwise restrained by the command of the King, the Privy Council, or any other, he praying for the same."—3rdly, "That if a freeman be committed or detained in prison, or otherwise restrained by command of the King, Privy Council, or any other, no cause of such commitment or detainer being expressed and the same be

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returned upon a habeas corpus granted for the said party, that then he ought to be delivered or bailed."—4thly, "That the ancient and undoubted right of every freeman is, that he hath a full and absolute property in his goods and estate, and that no tax, tallage, loan, benevolence, or other like charge, ought to be commanded or levied by the King or his ministers, without common assent of parliament." In a subsequent stage of the proceeding, Heath, the Attorney-General, having attempted to prove that commitments by the King himself were not subject to the ordinary rules of law, and stood up for *lettres de cachet*, Littleton made a furious attack upon him, and successfully demolished his authorities and arguments, showing that "it is equal whether the King do it himself or by the agency of others." He had a no less triumphant conflict with Secretary Cooke, who, although he had signed most of the illegal warrants by which members had been sent to jail for their conduct in the House, now found it convenient strongly to recommend moderation. He could not, however, resist the tempting offers made to him when the system was begun of buying off opposition, and he went over to the court along with Noy, Saville, and Wentworth. His first preferment was a Welsh Judgeship (in after times so perilous to patriotism), and soon after, by the support of the government, he was elected Recorder of London. He still continued to practice at the bar, and without political office was easily at the top of his profession. Noy, the Attorney-General, a most learned man, confined himself to his official duties, and was day and night among the musty records from which he was inventing, and preparing to justify, his writ of ship-money. The solicitor

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was one Shilton, silly and ignorant—put in by a caprice of the Duke of Buckingham, and universally despised. Brampston, the King's Sergeant, was lengthy and laborious, but seldom went beyond the drowsy atmosphere of the Common Pleas. Littleton, who had "taken great pains in the hardest and most knotty part of the law as well as that which was more customary, and was not only very ready and expert in the books, but exceedingly versed in records, so that he was looked upon as the best antiquary of the profession, and upon the mere strength of his own abilities had early raised himself into the first rank of the practices in the Common-Law Courts, now grew into the highest practice in all the other Courts," and he was eagerly retained in every cause of consequence. "When the King found he should have much to do in Westminster Hall, he made Littleton Solicitor-General, much to his honor but not to his profit, the obligation of attendance upon that office depriving him of much benefit he used to acquire by his practice." In *Rex v. Hampden*, Littleton took the leading part. Ship-money was to be proved to be legal by precedents, processes, records, and writings of different æras, from the Heptarchy downwards,—which were to upset all the acts of parliament which had been passed to forbid taxation without authority of parliament, and were to show that acts of parliament upon such a subject were *ultra vires* and void. His argument is certainly very learned and ingenious, and much more modest, or rather less outrageously offensive, than that of Chief Justice Finch and several of the Judges, who openly avowed the principles of pure despotism, insisting that the preroga-

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tive of the Crown was essentially absolute, and could not be controlled by legislative enactments. Finch being made Lord Keeper on the death of Coventry, a vacancy occurred in the office of Chief Justice of the Common Pleas, to which Banks had the best right, this being called "the Attorney-General's cushion;" but Mr. Attorney being of a stouter heart, and not unwilling to enjoy a little longer the sweets of his lucrative place, waived his claim, and Littleton, to his inexpressible delight, from being tossed on a tempestuous ocean, found himself at once in the delicious harbor for which he had long prayed, and which he had hardly hoped ever to reach. He was soon after made a Privy Councillor, against the wishes of Lord Keeper Finch, who was desirous of preventing other lawyers from entering into any rivalry with himself. When the Long Parliament met, he little thought that his further elevation and his troubles were approaching; and he still hoped that he might long repose on his "cushion" in the Common Pleas. In the morning after Finch's flight, he suddenly found himself on the woolsack, as Speaker of the House of Lords. Still he trusted that this appointment was only temporary, till the Great Seal should be delivered to another Lord Keeper. But he discovered in a little time that the King, by the secret advice of Strafford and Laud, wished that he should become Lord Keeper. He received the Great Seal, as Lord Keeper, at Whitehall, on the 19th of January, 1641. On the 18th of February following, he was raised to the peerage by the title of Lord Littleton, of Mounslow. We now come to a passage in his life which justly subjects him to the charge

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of the basest pusillanimity. On the day when Strafford was to be arraigned, the King unexpectedly came to the House of Lords, and seating himself on the throne without his robes, merely said that he wished to hear the nature of the charges. The ceremony having been once gone through, he withdrew, and several Peers testified high resentment at this intrusion, insisting that it was an attempt to intimidate, and that all that had taken place while the King was present was to be considered *coram non judice*, and void. Now it was expected that "Baron Littleton of Mounslow" would have stood up for the King. But the Lord Keeper was so frightened by this sudden storm, that he had not a word to say even by way of apology for the King, and a motion being carried without opposition, that the Earl of Strafford be again called to the bar, that the articles of impeachment might be read to him and his plea taken *de novo*;—without leaving the woolsack he a second time went through the ceremony of the arraignment. Some thought that the Lord Keeper would make amends when the trial actually came on; but the day before that fixed for its commencement, he sent a message to the House of Lords, intimating that he was taken so ill that it was impossible for him to attend. This was justly considered a material advantage gained for the impeachment. The Earl of Arundel, the Earl Marshal, an enemy of Strafford, was elected by the House to sit Speaker in the absence of the Lord Keeper. The truth was, that when Littleton heard of the preparations in Westminster Hall for this great solemnity,—the court for the Peers, the closet

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for the King and royal family, the galleries for the House of Commons, the seats for the Scottish Commissioners and the deputation from the Irish parliament, and, above all, the crowds that were to assemble, and the cries for vengeance that had already been uttered in the streets,—his heart entirely failed him, and a real illness afterwards came on, which confined him for some weeks to his bed. Before he would acknowledge that he had recovered, Strafford, by an unparalleled display of constancy and talent,—without professional assistance,—and three nations marshalled against him,—had defeated the proceeding by impeachment; a bill of attainder had been brought in to put him to death without the forms of justice. After Strafford's execution, Littleton resumed his place on the woolsack; but he offered no resistance to any of the bills which came up from the Commons. He was well justified in agreeing to those for abolishing the High Commission Court and the Star Chamber. At last there was some respite from these troubles, the two Houses having adjourned while the King went on a visit to Scotland, and Littleton was allowed to enjoy repose at his villa at Cranford. Meanwhile the Irish rebellion broke out; the alarm of a counter-revolution by a Roman Catholic force was universally spread, and parliament again meeting, measures were proposed by the popular leaders inconsistent with monarchical government. None of these had the Lord Keeper the spirit to resist. His excuse was, that he cultivated the good-will of the republican party so that he might be able more effectually to serve the King. He then suddenly took another turn, which was still more

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fatal to the royal cause. The Queen, the ladies of the court, and Lord Digby, resolved that they would put down the movement by a display of vigor, and that the prosecutors of Strafford should share his fate. A charge of high treason was to be suddenly brought against Lord Kimbolton, Pym, Denzill Hollis, Sir Arthur Hazelrig, Hampden, and Strode, upon which they were to be committed to prison, and it was thought that the disaffected, thus deprived of their leaders, would instantly become powerless. The charge was to be made—not by indictment before a grand jury, or by the impeachment of the Commons,—but by the Attorney-General *ex officio* in the House of Lords. When this scheme was disclosed to the Lord Keeper, he must have seen the madness of it. As a lawyer, he must have known that the House of Lords had no jurisdiction to try commoners for a capital offense; and that the Attorney-General had no power to originate such a prosecution. But finding that the King was strongly bent upon it, he had not the courage to oppose it; and he communicated a royal message to the Lords, “that the Attorney-General, by the King’s special command, was to lay before them a charge for high treason, against one member of that House and five members of the other House of Parliament.” The articles being read, they were found to charge the accused with subverting the fundamental laws of the kingdom,—with attempting to alienate the affections of the people from the King,—with sowing disaffection in the army,—with inviting the Scots to invade England,—with endeavoring to overturn the rights and being of parliaments,—with exciting tumults,—

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and with conspiring to levy war against the King. Mr. Attorney then moved, that their Lordships would take care for securing the persons of the accused. Lord Kimbolton was in the House sitting by Lord Digby, with whom he had a great private intimacy; and who, although he had recommended the measure, pretended to him that it struck him with surprise and horror. According to the concerted plan, and according to the course pursued with Strafford and Laud, the Lord Keeper ought to have moved the immediate commitment of Lord Kimbolton; but his courage failed him, and the House adjourned. Since the failure of the prosecution of the five members, Littleton had abandoned all effort to put on a show of vigor in the House of Lords, and had silently suffered the most objectionable votes to be carried without opposition. He was even suspected of perfidy, for he had private conferences with the leaders of the parliamentary party, who frequently resorted to him, and whom he appeared very much to court. At last, having supported the Militia Bill to which the King refused the royal assent,—when it again came up from the Commons in the form of an ordinance by the two Houses, omitting the King's name,—he put the question upon it from the woolsack, and himself actually voted for it, “to the infinite offense and scandal of all those who adhered to the King.” This was in reality the abolition of monarchy, and the establishment of a republic. When the news of the Lord Keeper's vote on the Militia Bill reached York, the whole Court was thrown into amazement and dismay. The King, exceedingly displeased and provoked, sent a peremp-

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tory order to Lord Falkland instantly to demand the Great Seal from the traitor, and desired him to consult with Hyde as to who would be the fittest person to be appointed to succeed, suggesting the names of Banks, now Chief Justice of the Common Pleas, and Selden, the celebrated antiquary. The positive order to require the Seal from the present Lord Keeper would have been obeyed, had not Falkland and Hyde been so much puzzled about recommending a successor; but they thought the Lord Chief Justice Banks might be as timorous as the other in a time of so much disorder, although he had been bold enough in the absence of danger, and they concluded that he was not equal to the charge. "They did not doubt Mr. Selden's affection to the King any more than his learning and capacity, but they were convinced that he would absolutely refuse the place if it were offered to him, as he was in years and of a weak constitution, and had long enjoyed his ease, which he loved, and was rich, and would not have made a journey to York, or lain out of his own bed, for any preferment." Hyde finished by offering to stake his own credit with the King that Littleton would be true. They resolved to give an account of the whole to the King, and expect his order. Charles naturally had great misgivings of the fidelity and firmness of Littleton, notwithstanding Hyde's confidence, but approved of the course recommended, and wrote back that on Saturday in the following week, as soon as the House of Lords had adjourned, a messenger from him should arrive at Exeter House, and order the Keeper of the Seal to repair to him forthwith at York. This resolution was

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communicated by Hyde and Falkland to Littleton. On the Saturday he privately intimated that he was going to his villa at Cranford for his health, and induced the Lords to adjourn the House to as late an hour as ten o'clock on the Monday morning, that he might sleep two nights in the country. He had not long got back to his house in the Strand, when about two o'clock in the afternoon Mr. Elliot, a groom of the bed-chamber to the Prince, entered his study, where he was awaiting the royal messenger, and delivered to him an autograph letter from the King, requiring him, with many expressions of kindness and esteem, to make haste to him. At day-break the next morning, the Lord Keeper and his purse-bearer stepped into his carriage, as if they had been going to Cranford; but when they had got into the part of the country where Piccadilly now stands, they discovered by the side of the hedge the groom and two led horses. They immediately mounted, and before the end of the third day he kissed the King's hand at York. Littleton's conduct at York was extremely mysterious, and seems to show that he is liable to the charge of duplicity as well as timidity. He was again declared Lord Keeper, though for some time the King would not trust the Seal out of his own presence, and when it was to be used, produced it to Littleton, and received it back from him as soon as the sealing was over. Although Littleton was continued in his office by the King till the time of his death, and although he ever after adhered to the royal cause, he does not seem to have been much trusted, and his name seldom occurs in subsequent

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transactions. He was not admitted with Hyde and Falkland into the secret consultations of the royalists, and his only official duty was to put the Great Seal to proclamations and patents. He fixed his residence at Oxford, now considered the seat of government, but was sometimes called upon to attend the King in his campaigns. Without a bar, solicitors, or suitors, he pretended to sit in Chancery, and he went through the form of passing a commission under the Great Seal, appointing certain other persons to hear and determine causes in his absence. His most solemn judicial act at Oxford was calling Sir Richard Lane to the degree of Sergeant-at-Law, and swearing him in Chief Baron of the Exchequer. After the battles of Edge Hill and Newbury there was, in the beginning of 1644, the form of a parliament at Oxford, and a much greater number of Peers attended here than at Westminster, although the Bishops were not allowed to sit, in consequence of the act for excluding them from parliament, to which the King had given his assent. The Hall of one of the Colleges was fitted up in the fashion of the House of Lords, and Littleton presided on the supposed woolsack. But though Charles so far complied with the forms of parliament as to make the two Houses a short speech at the opening of the session, he did not say, according to the precedents, that the Lord Keeper would further explain to them the causes of their being assembled. He had fled so suddenly from London, that he had been obliged to leave all his books and manuscripts behind him. The parliament did not generously send them after him for his consolation, but made an order that "in respect to the learning of Mr.

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Whitelock, and his other merits in regard to the public, all the books and manuscripts of the Lord Littleton, late Keeper of the Great Seal, which should be discovered, should be bestowed on Mr. Whitelock, and that the Speaker grant his warrant to search for them, seize them, and put them into his possession." Being particularly without civil occupation, the Lord Keeper thought that he might agreeably fill up his leisure, and that he might raise his reputation, by looking like the times and becoming a soldier. We have mentioned that he was a famous swordsman in his youth. Though so notorious for moral cowardice, he was by no means deficient in natural bravery, and on whichever side he had happened to fight, he would have shown an English heart. He now proposed to raise a volunteer corps, which he himself was to command,—to consist of lawyers and gentlemen of the Inns of Court and Chancery, officers of the different Courts of Justice, and all who were willing to draw a weapon for Church and King under the auspices of the Lord Keeper. The offer was accepted, and a commission was granted to him, of which the doquet remains among the instruments passed under the Great Seal of King Charles I. at Oxford.

"A commission granted to Edward Lord Littleton, Lo. Keep. of the Greate Seale, to raise a regiment of foot soldiers, consisting of gent. of the Inns of Court and Chauncy, and all ministers and officers belonging to the Court of Chauncy, and their servants, and of gent. and others who will voluntarily put themselves under his command to serve his Ma^{tie} for the security of the Universitie and Cittie of Oxford. T^e apud Oxon. xxi^o die Maij A^o R. R. Caroli, xx^o.

"per ipsm Regem."

The Lord Keeper devoted himself to this new pursuit with great zeal and energy, and as he was a remarkably tall,

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handsome, atheletic man in a green old age, he made an excellent officer. All connected with the Law flocked to his standard, and their number was greatly increased by recruits from the different colleges who mixed military exercises with their logical contentions in the schools. As a mark of respect for his military prowess the University now conferred upon him the degree of Doctor of the Civil Law. Whether these learned volunteers could ever have been made capable of facing the psalm-singing soldiers of Cromwell—commanded by “Colonel Fight-the-good-fight-of-faith,” and “Captain Smite-them-hip-and-thigh,”—is left in doubt, for the “Lord Keeper Commandant,” while drilling his corps one morning in Bagley Wood, was overtaken by a thunder-storm, and caught a violent cold. This being neglected turned into a fever, which carried him off on the 27th of August, 1645,—to the regret of the royalist party, notwithstanding his backslidings and the serious suspicions which had formerly been entertained of his fidelity. He was buried with military honors in the cathedral of Christ Church, not only his own regiment, but the whole garrison attending. All the nobility at Oxford, and the heads of houses, joined in the procession. The solemnity was closed with a funeral eulogium upon him, by the “incomparable Dr. Hammond,” then Orator of the University. After the Restoration, a monument was erected over his grave—recording his origin, the high offices he had held, and the virtues his family wished to have attributed to him,—above all,—

“Fortitude and Unsuspected Faith to His Sovereign.”

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EDWARD THURLOW was born at Bracon-Ash, county of Norfolk, in the year 1732. His father was a clergyman of the Church of England, a man of but ordinary ability, whose sole ambition was to pass his life in the performance of the duties of his small parish. Edward soon developed traits of character which made him a source of grief and anxiety to his parents. His waywardness seemed to increase with his years, and his insolence and intractableness became so notorious that a gentleman who bore a strong resentment against Mr. Talbot, the head-master of Canterbury School, on account of a severe punishment received for some student follies, induced Mr. Thurlow to send his son there, in order that the hated master might have under his care "a daring, refractory, and clever boy, who would be sure to torment him." Whether young Thurlow fulfilled the desires of his friend we are not informed. Probably he did not, as Mr. Talbot seems to have won his love and respect, and he ever in after life spoke of the master in the kindest manner. From Canterbury School he was sent to Caius College, at

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Cambridge. Here his character appears to have displayed itself in its worst form. While at Canterbury he studied hard, and distinguished himself by his fine scholarship; but at Cambridge he passed his time in apparent idleness and continued rebellion against the laws of the college. His frequent breaches of academic discipline made him familiar with impositions, confinements within the college, privations of sizings and threats of rustication. He is reported to have often taken upon himself the blame of acts in which he had no hand, for the pleasure of arguing the case and showing his ingenuity in justifying what he had done. Equally celebrated was he for waywardness in getting into scrapes, and for cleverness in getting out of them. The statutes of the university enjoin that all undergraduates shall wear habits of either of black or a subdued color, and specially prohibit collars and cuffs of a different color from the coat. Thurlow had been a frequent offender against this rule. On one occasion, meeting a fellow when in the prohibited dress, he boldly denied that he had transgressed. "What," said the Don, "am I not to believe my own eyes?" "Not always," and casting off his coat, he proved that the gay cuffs and collars were affixed to his vest, and ingeniously turned over his coat. On another occasion, the master having thus rebuked him, "Sir, I never come to the window without seeing you idling in the court," the unabashed undergraduate answered: "Sir, I never come into the court but what I see you idling at the window." At last he was summoned before the dean of his college—a worthy man, but weak and formal—for non-attendance at chapel, and had an imposition set him—to translate a

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paper of the Spectator into Greek. He duly performed the task, taking considerable pains with it; but instead of bringing his translation, as he well knew duty required, to the imposer, he intimated to him that he had delivered it to the college tutor, who had the reputation of being a good Grecian. This Mr. Dean construed into an unpardonable insult, and he ordered the delinquent, as in cases of the gravest complexion, to be summoned before the Master and Fellows of the College. The charge being made and proved, Thurlow was asked what he had to say in defense or extenuation of his conduct? "Please your worships," said he, "no one respects Mr. Dean more than I do; and, out of tenderness to him, I carried my exercise to one who could inform him whether I had obeyed his orders." This plain insinuation that the Dean was little acquainted with the Greek tongue was the more galling as being known to be well-founded, and was considered by him an enormous aggravation of the original injury. He denounced it as a flying in the face of all authority, and foretold that the discipline of the College was at an end if they did not now proceed with the utmost severity. In conclusion, he declared that "rustication would only be laughed at by the offender, and that expulsion was the only adequate punishment." There was no denying that the offense was a serious one, but considerable sympathy was felt for the young gentleman, who, although his future greatness was little dreamed of, was known to possess social good qualities, and to evince excellent abilities when he chose to exert them. In mitigation, they likewise remembered the dash of absurdity about Mr. Dean which had often made him the butt of

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the combination room. In particular, Smith, the tutor (afterwards head of the house), put in a good word for the culprit, and, to avoid setting a brand upon him which might ruin him for life, proposed that he should be permitted to remove his name from the college books, and that no other proceedings should be taken against him. Notwithstanding the stout resistance of the Dean, this suggestion was adopted. Thurlow gratefully acquiesced, and thus left Cambridge without a degree. Notwithstanding his irregularities, there can be no doubt that he derived great benefit from his residence there. He had occasional fits of severe application; and, always having a contempt for frivolity, when he seemed to be idle he was enlarging his stock of knowledge, and sharpening his intellect by conversing with men of strong sense and solid acquirements. Among the strange vicissitudes of life, it did so happen that the refractory disciple, thus discarded from the bosom of Alma Mater, reached the highest civil dignity in the state; and it is pleasant to relate, that, when presiding on a woolsack, he recollected the friendly interference of Dr. Smith, and caused him to be appointed chancellor of the diocese of Lincoln. It is even said that he afterwards handsomely made atonement to "Mr. Dean." The story goes, that he had had an earlier quarrel with this functionary, who had interrupted him, rather sharply, with the question, "Pray, sir, do you know to whom you are speaking?" bidding him to recollect that he was in the presence of no less a person than the Dean of the college. This hint was not lost upon Thurlow, who then, and ever after, began and interlarded every sentence he addressed to him with the vocative, "Mr. Dean;"

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this banter being doubly galling to the assertor of the title as he could not consistently appear to be offended by it. When the flippant youth, who had been so nearly expelled from his college, had a little while held the Great Seal, the individual who had proposed and pressed his expulsion obeying a summons to wait upon him, the Chancellor's first salutation to him was, "Mr. Dean, how d'ye do? I am very happy to see you, Mr. Dean." "My Lord," he observed, somewhat sullenly, "I am no longer Mr. Dean." "That is as you please; and it shall not be my fault if the title does not belong to you, for I have a deanery at my disposal, which is very much at your service, Mr. Dean." His early destination for the bar remaining unaltered, he had been entered of the Inner Temple while an undergraduate at Cambridge; and as soon as he quitted the University he took chambers, and began to keep terms by eating a certain number of dinners at the hall. He evidently studied hard, although the poet, Cowper, who was a fellow-student with him, was accustomed, in after life, to say that Thurlow never appeared to study, was "constantly employed, from morning to night, in giggling and in making his fellow-students giggle." In 1754 he was called to the bar, and selected the western circuit as the field of his labors. So slender were his resources, that he was obliged to resort to many expedients to support himself. It is said that at one time, he was actually reduced to the following stratagem to procure a horse to carry him round the circuit: He went to a horse-dealer, and said to him that he wished to purchase a good roadster—price being no object to him—but that he must have a fair trial of the animal's paces before he con-

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cluded the bargain. The trial being conceded, he rode off to Winchester, and having been well-carried all the round, but still without any professional luck, he returned the horse to his owner, saying that "the animal, notwithstanding some good points, did not altogether suit him." At last, fortune smiled upon him. By some chance he had a brief in the case of *Luke Robinson v. Earl of Winchelsea*, tried before Lord Mansfield, at Guildhall. The leader on the opposite side was Sir Fletcher Norton, then the tyrant of the bar, who began by treating the unknown junior with his usual arrogance. This Thurlow resented with great spirit. They got into an altercation, in which Thurlow had with him the sympathies of the bar and the bystanders, and, with a happy mixture of argument and sarcasm, he completely put down his antagonist. The attorneys who had smarted much under Norton's despotic rule were exceedingly delighted, and resolved to patronize the man who had shown so much courage and capacity. Briefs in cases of a peculiar character did come in, and he was now known and talked of in the profession, as one supposed to be possessed of great resources, and likely one day to make a figure; but still he had few constant clients, and little regular business. According to legal tradition, soon after the decision of the Court of Session in Scotland, that the alleged son of Lady Jane Douglas was a supposititious child purchased at Paris, the question, which excited great interest all over Europe, was discussed one evening at Nando's coffee-house—Thurlow's favorite haunt. Thurlow, like his contemporary, Dr. Johnson, took great pains in gladiatorial discussion, knowing that he excelled in it, and he was pleased and ex-

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cited when he found a large body of good listeners. On the evening in question, a friend of his at the English bar strongly applauded the judgment against the supposed heir of the house of Douglas. For this reason, probably, Thurlow took the contrary side. Like most other lawyers, he had read the evidence attentively, and in a succinct but masterly statement, he gave an abstract of it to prove that the claimant was, indeed, the genuine issue of Lady Jane and her husband,—dexterously repelling the objections to the claim, and contending that there were admitted facts which were inconsistent with the theory of the child being the son of the French rope-dancer. Having finished his argument and his punch, he withdrew to his chambers, pleased with the victory he had obtained over his antagonist. It so happened that two Scotch law agents, who had come up to Edinburgh to enter the appeal, having heard of the fame of Nando's, and having been told that some of the great leaders of the English bar were to be seen there, had at a side table been quiet listeners during the disputation, and were amazingly struck with the knowledge of the case and the acuteness which Thurlow exhibited. The moment he was gone, they went to the landlady, and inquired who he was. They had never heard his name before; but, finding that he was a barrister, they resolved to retain him as junior to prepare the appellant's case, case, and to prompt those who were to lead it at the bar of the House of Lords. Next morning a retainer, in *Douglas v. Duke of Hamilton*, was left at Thurlow's chambers, with an immense pile of papers, having a fee indorsed upon them ten times as large as he had ever before received. At a confer-

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ence with the agents (who took no notice of Nando's), an explanation was given of what was expected of him,—the Scotchmen hinting that his fame had reached the "Parliament House at Edinburgh." He readily undertook the task, and did it the most ample justice, showing that he could command, upon occasion, not only striking elocution, but patient industry. He repeatedly perused and weighed every deposition, every document, and every pleading that had ever been brought forward during the suit; and he drew a most masterly case, which mainly led to the success of the appeal, and which is invaluable to the law student as a model of lucid arrangement and forcible reasoning. While so employed, he made the acquaintance of the Duchess of Queensberry, the well-known friend of Gay, Pope, Swift, and the other wits of the reign of Queen Anne. When she had got over the bluntness of his manners, she was greatly pleased with him, and, at his solicitation, procured for him the privilege of a silk gown. In December, 1761, Thurlow boldly doffed his stuff gown for the silk, renouncing his privilege to draw law papers, or to appear as junior counsel for any plaintiff. In the following term he was elected a Bencher of the Inner Temple, but it was some time doubtful whether he would reap any other fruit from his new rank. Rival barristers complained much, that in the seventh year of his call, being known for nothing except his impertinence to Sir Fletcher Norton, he should be put over the heads of some who might have been his father; while the general consolation was, "that the silk gown could never answer to him, and that he had cut his own throat." When Thurlow appeared in court with his silk

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robe and full-bottom wig—lowering frowns and contemptuous smiles successively passing across his visage as the arguments or the judgment proceeded—the solicitors could not behold him without some secret awe, and without believing that he was possessed of some mysterious powers which he could bring into activity in their service. When he had an opportunity of opening his mouth, he spoke in a sort of oracular or judicial tone, as if he had an undoubted right to pronounce the verdict or judgment in favor of his client. He appeared to think that his opponent was guilty of great presumption in controverting any of his positions; and, unless his cause was desperately bad (when he would spontaneously give it up), he tried to convey the notion that the judges, if they showed any disposition to decide against him, were chargeable with gross ignorance, or were actuated by some corrupt motive. By such arts he was soon in first-rate business, and all of a sudden,—from extreme poverty,—in the receipt of a very large income. During Lord Chatham's second ministry, the Whigs had gone down in the world most lamentably, and they seemed to have lost forever their illustrious chief. Toryism was decidedly favored at Court, and had the ascendancy in both Houses of Parliament. Thurlow declared himself a Tory, and, in the interest of the party he had joined, in the new parliament which met in May, 1768, he was returned for Tamworth, since illustrated by a still more distinguished representative. To this party he most zealously and unscrupulously adhered till he was deprived of the Great Seal by the younger Pitt. Meanwhile the Douglas appeal, after eight years' preparation, came on to be heard at the bar

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of the House of Lords, and attracted a greater share of public attention than any political debate in either House. Thurlow led for the appellant, and, having for years devoted himself to the case, by his admirable pleading he showed what excellence he might have reached, and what solid fame he might have acquired, if his industry had been equal to his talent. This was a very brilliant passage of his life, for he was not only rapturously applauded as an advocate, but he gained immense *éclat* for his courage and gentlemanlike deportment in an affair of honor to which the cause gave rise. In 1771 Thurlow was appointed Attorney-General. He distinguished himself by his zealous advocacy of all the government measures, and made many enemies by his extreme arrogance. At the bar he won fresh laurels in the celebrated Duchess of Kingston's case. The government was in sad need of aid in debate in the House of Lords. It was therefore resolved to accept the resignation of Lord Bathurst, which had been tendered, and, on June 3rd, 1778, Thurlow was sworn in Lord Chancellor. As a judge he has usually been rated very highly, but the tendency of modern opinion has been to estimate him somewhat lower. Mr. Butler has described his decrees as "strongly marked by depth of legal knowledge, and force of expression, and by the overwhelming power with which he propounded the result; but they were," he adds, "too often involved in obscurity, and sometimes reason was rather silenced than convinced." This method, as it has been remarked, is precisely that which we might expect in a judge who is indebted to the learning of others for the judgments which he delivers, and who is not himself familiar

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with the chain of reasoning, the conclusion of which constitutes his decree. It is well known that most of his judgments were framed by Mr. Hargrave. Thurlow has been charged with having allowed the causes in his court to accumulate; but we doubt if this accumulation be not rather due to the imperfect constitution of the court, than imputable to the Chancellor himself. When on the bench, he is said to have restrained with difficulty those forms of expression, which, though habitual to him, would hardly have suited the dignity of his office. He disliked, and always checked in his court, any tendency to what is sometimes called eloquence. He once cut short a flowery advocate in the middle of a metaphor, and bid him read his brief. His behavior towards the bar was rough and uncouth; but not overbearing. He was probably too conscious of his deficiencies in knowledge of law to have attempted such conduct. In the House of Lords he realized the anticipation of the government, and proved a valuable and zealous supporter. But, both on the Woolsack and in the Court of Chancery, his peculiar traits of character were ever prominent. One would have thought that, by his natural disposition, he was utterly disqualified for discharging the duties of a judge, or performing the part of a courtier. His violent and often ungovernable temper,—which, in its subdued moods, deserves the name of surliness, or bluntness,—seemed to form an insuperable impediment to success in either of these capacities. Yet despite it Lord Thurlow was a supple and pliant courtier; and, although his learning has possibly been overrated, an able and impartial judge. The following

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anecdotes will illustrate forcibly the peculiarity of his temper. One day he was sitting in his private room to hear some application at the time that the lords were assembling in their house. Being unable to commence business without their speaker, they desired Mr. Quarme, deputy-usher of the black rod, to go to the Chancellor and tell him the house had met. Mr. Quarme went and delivered his message. "Umph," was the only reply which the chancellor vouchsafed. The deputy-usher returned to the house,—some time passed, and Lord Thurlow did not make his appearance. A peer went down to Mr. Quarme, and begged him to go again and tell the chancellor plainly that the lords were waiting for him,—that the hour appointed for the house meeting had long passed,—and that they could wait no longer. The deputy-usher returned to the Chancellor, and with some emphasis repeated the message with which he was charged. The Chancellor deigned to reply no otherwise than with his accustomed growl. "But, my lord," said Quarme, with some warmth, "I must have your lordship's answer; the lords are waiting." "D—n the lords," said Thurlow, quickly, fixing a look of rage on the usher. "You may d—n the lords as much as you like," exclaimed the undaunted official, "but I'm d——d, were you twenty times Chancellor, if you shall d—n me!" The Chancellor gazed with astonishment at Quarme,—the audacity of a mere servant of the house thus bearding its chief excited his amazement; at length his features expanded into a smile, and rising from his chair he exclaimed, "By Jove, you are a bold fellow; come and dine with me to-morrow." "And so I will," replied Quarme; with whom,

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ever after, the Chancellor continued on terms of friendship. As speaker of the House of Lords, Thurlow was distinguished for the dignity with which he enforced the rules of debate. Upon one occasion he called the Duke of Grafton to order, who, incensed at the interruption, insolently reproached the Chancellor with his plebeian origin, and recent admission into the peerage. When the Duke had concluded his speech, Thurlow rose from the woolsack, and advanced slowly to the place from whence the Chancellor generally addresses the house; then fixing upon the duke the look of Jove when he grasps the Thunder,—“I am amazed,” he said, in a level tone of voice, “at the attack which the noble lord has made upon me. Yes, my lords,” considerably raising his voice, “I am amazed at his grace’s speech. The noble duke can not look before him, behind him, or on either side of him with seeing some noble peer, who owes his seat in this house to his successful exertions in the profession to which I belong. Does he not feel that it is as honorable to owe it to these as to being the accident of an accident? To all these noble lords, the language of the noble duke is as applicable and as insulting as it is to myself. But I do not fear to meet it single and alone. No one venerates the peerage more than I do; but, my lords, I must say the peerage solicited me, not I the peerage. Nay, more, I can say, and will say, that as a peer of Parliament, as Speaker of this right honorable house, as keeper of the Great Seal, as guardian of his Majesty’s conscience, as Lord High Chancellor of England, nay, even in that character alone in which the duke would think it an affront to be considered, but

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which none can deny *me*,—as a MAN,—I am at this moment as respectable,—I beg leave to add, I am at this moment as much respected, as the proudest peer I now look down upon." The effect of this speech, both within the walls of Parliament and out of them, was prodigious. It gave Lord Thurlow an ascendancy in the house, which no Chancellor had ever possessed. He retained the office of Lord Chancellor in the Rockingham and Shelburne administrations—which succeeded that of Lord North—by command of the King, over whom Thurlow had acquired a wonderful influence. He was politically opposed to his associates, and his constant opposition to their measures caused many dissensions in the ministry, and at length caused the resignation of Mr. Fox, and in the Coalition ministry which succeeded, it was stipulated that Thurlow should not have a place. Upon the accession of Mr. Pitt to power in 1783, Thurlow again received the Great Seal, which he held for nine years. But his course finally became so objectionable to Mr. Pitt, that he was removed. He never afterward held office or took a leading part in politics. He died on the twelfth of September, 1806, in the seventy-sixth year of his age.

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YOUNGER son of the noble house of Erskine, Earls of Buchan, Thomas Erskine was born on the 10th of January, 1750, in a "small and ill-furnished room," in an upper "flat" of a lofty house in the old town of Edinburgh. His family, who derived their name from, or possibly gave it to the lands of Erskine on the banks of the Clyde, were connections of the still older house of Mar,—of whom Lord Hailes says that their earldom dates from times anterior to history. But the Earls of Buchan, in the seventeenth and eighteenth centuries, had scattered to the winds a large portion of their hereditary wealth, so that, according to Lord Campbell, an income of £200 a year was all that was left to Henry David, the tenth Earl, on which to maintain and bring up his family. His Countess, however, Agnes, second daughter of Sir James Stewart of Goodtrees, in the county of Midlothian, was a woman of great energy, high character, and piety; and she struggled nobly with the disadvantages of her husband's narrow means. She brought her children up in a somewhat strict Presbyterian faith, as befitted the descendants of a religious house

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which had suffered much in the Covenanting cause. Still the "flat" which she occupied with her husband and children was frequented not only by eloquent Presbyterian divines but also by leaders of the "Parliament House," and by members of the best families who wintered in the Scottish metropolis. A child of high spirit and very good abilities, young Thomas Erskine was sent to the High School of his native city, where it is recorded that he rose to be "Dux," or, as we should say in England, "captain," or head-boy in his class. But unfortunately, in spite of its educational advantages, Lord Buchan found "Northern Athens" too expensive a place to live in, and accordingly, in 1762, removed with his children to St. Andrews. Here, at the grammar-school, under a Mr. Hacket, Thomas Erskine maintained his early character for ability; but he does not appear to have been very industrious, since he picked up little Greek beyond the alphabet, and never attained to more than a very moderate stock of Latin. He was, however, fond of reading the English writers, both of prose and verse, and he devoured whole volumes of travels, voyages, and plays, with avidity. After leaving school, he attended several courses of lectures in the classes of mathematics and natural philosophy at the University of St. Andrews, but he never appears to have become a member of it by formal matriculation. It was his early wish to have entered one of the learned professions; but the family purse was not well-lined enough to admit of this idea being realized; so it was settled that he should be a midshipman. He vainly strove against this destination, and indeed went so far as to try, through his

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relatives, to obtain instead a commission in the army without purchase: but the fates were against him, and to sea he was forced to go. Accordingly, in the spring of 1765, he was put under the charge of Sir David Lindsay, then captain of H.M.S. "Tartar," with whom some little interest had been made on his behalf through his uncle, the Earl of Mansfield. Having been duly fitted out with his blue jacket, cocked-hat, and sword, he joined his ship at Leith, and spent four years very pleasantly and happily, if we may judge from allusions in his letters, in cruising about the American station and in various parts of the West Indies. On returning home, however, at the age of nineteen, he found, on his ship being paid off, that he had no chance of going to sea again except as a "middy," and this did not suit his pride, as he had been employed by his captain as acting-lieutenant. His father died in 1767 and he again thought of entering a learned profession; but the scantiness of his inheritance prevented him from entering either of the English Universities; so, through the interest of the Duke of Argyll, he was glad to obtain an ensign's commission in the "Royals," or "First Regiment of Foot." But the purchase-money absorbed all his means. The first two years of his military life were spent, not on foreign service, but in barracks at various towns in England and Ireland. He appears, however, to have made good use of his leisure in one respect; for on the 29th of April, 1770, when only just twenty years of age, he married a young lady of good family and connections, though not much more wealthy than himself, the daughter of Mr

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Daniel Moore, M.P. His wife accompanied him to Minorca, whither his regiment was ordered, and where he spent two years, busily employing himself in going through a course of English literature. Lord Campbell tells us that he also "showed the versatility of his powers by acting as chaplain to the regiment, the real chaplain being absent on furlough." No doubt the extemporary prayers to which he must have listened, and in which he probably joined, at his mother's house, here stood him in good stead. Returning to England in 1772, we find him mixing in the society of London, in which he was well fitted to shine even at that time; and he was a constant frequenter of the *salon* of Mrs. Montagu in Portman Square, where he used to meet most of the literary celebrities of the day, including Dr. Johnson; and if we may believe Boswell, he was bold enough on one occasion to maintain a contest of words against that Goliath of criticism on the subject of the slaughter of the Assyrian host under Sennacherib by the destroying angel. Fired with literary ambition, or a zeal for the army, or both, he now became an author, though anonymously. The title of his work explains the author's purpose, and shows that from very early convictions he was a genuine Liberal and Reformer. It was entitled, "Observations on the Prevailing Abuses in the British Army, arising from the Corruption of Civil Government; with a Proposal to the officers towards obtaining an Addition to their Pay. By the Hon. ———, an Officer. 1773." The pamphlet had a large circulation. "The name of its author (says Lord Campbell) was well known, though it did not

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appear on the title-page; and he acquired much celebrity by the boldness and eloquence with which he had pleaded for his profession." In 1773 he was promoted to the rank of lieutenant; but there seemed to be little or no chance of a war; and in peace he knew that he could not afford to purchase his commission as captain. It so happened, one day in the following year, that his regiment was quartered in a town where his relative, Lord Mansfield, was Judge of Assize. He came into court, was invited to sit by the Judge's side on the bench, and afterwards to dine with his Lordship at the Judge's lodgings. He communicated to Lord Mansfield his early desire in the direction of the Bar; and finding no discouragement in that quarter, and on the contrary great sympathy from his mother, he resolved to carry out his design. Accordingly, in April, 1775, he was admitted as a student at Lincoln's Inn, and in the following January entered Trinity College, Cambridge, as a fellow-commoner. At Cambridge, however, he did not follow the studies of the place; but concentrated his attention upon English literature, in which he proved his ability by carrying off the college prize for English declamation. While still a student at Cambridge he contrived to keep his terms at Lincoln's Inn, and became a pupil, at first in the chambers of Mr. Justice Buller, then a special pleader, and after his elevation to the Bench, in those of Mr. George Wood, afterwards a Baron of the Exchequer. At this time he lived in small lodgings in Kentish Town, at the foot of Hampstead and Highgate Hills, and he had the greatest difficulty in keeping the expenses of his young and increasing family

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within his slender means. Reynolds, in his "Life and Times," relates that "The young student resided in small lodgings near Hampstead, and openly avowed that he lived on cow-beef, because he could not afford any of a superior quality, dressed shabbily, expressed the greatest gratitude to Mr. Harris for occasional free admissions to Covent Garden, and used boastingly to exclaim to my father, 'Thank fortune, out of my own family, I don't know a lord.'" In the evenings he used to take part in the debates of the Robin Hood, Coachmakers' Hall, and other "spouting shops," which, according to the custom of the time, were attended by shoemakers, weavers, Quakers, law-students, and members of Parliament, each person paying sixpence, and being entitled to a glass of porter or punch, and in which there is said to have been often a display of high oratorical powers. Though he never became a profound jurist, yet, with his lively imagination, he had a sound and logical understanding; and his legal and commonplace books, which are still in existence, show that at this period his application to the studies of his newly-adopted profession was close and unremitting. Hence his progress was respectable, if not brilliant; and in a very short space of time he was able to collect and arrange the authorities upon most questions of law which he had to consider, and so to arrive at a thorough comprehension of the issue at stake. He was called to the Bar in Trinity Term, 1778, but continued working in the chambers of Baron Wood until the following month of November, when, by one of those extraordinary chances which from time to time happen in some paths of life, he

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was suddenly called upon to defend Captain Baillie, the Lieutenant-Governor of Greenwich Hospital, against whom an action was brought for publishing statements relative to the abuses of that institution, and which were construed into a reflection on Lord Sandwich, then First Lord of the Admiralty. A fee of a guinea was dropped into his hand as a retainer, and the case came on before Lord Mansfield. The expectation was, that the Solicitor-General would have no difficulty in making the rule absolute, and that Captain Baillie would lose his cause. But the speech of young Erskine at once electrified the Court and the audience. His connection with this case was related by himself many years afterward, as follows: "I had scarcely a shilling in my pocket when I got my first retainer. It was sent to me by a Captain Baillie of the navy, who held an office at the board of Greenwich Hospital; and I was to show cause, in the Michaelmas Term, against a rule that had been obtained in the preceding term, calling upon him to show cause why a criminal information for a libel, reflecting on Lord Sandwich's conduct as governor of that charity, should not be filed against him. I had met, during the long vacation, this Captain Baillie, at a friend's table, and after dinner I expressed myself with some warmth, probably with some eloquence, on the corruption of Lord Sandwich as First Lord of the Admiralty, and then adverted to the scandalous practices imputed to him with regard to Greenwich Hospital. Baillie nudged the person who sat next to him, and asked who I was. Being told that I had just been called to the Bar, and had been formerly in the navy

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Baillie exclaimed, with an oath, 'Then I'll have him for my counsel!' I trudged down to Westminster Hall when I got the brief, and, being the junior of five who would be heard before me, never dreamed that the court would hear me at all. Bearcroft, Peckham, Murphy, and Hargrave were all heard at considerable length, and I was to follow. Hargrave was long-winded, and tired the court. It was a bad omen; but, as my good fortune would have it, he was afflicted with strangury, and was obliged to retire once or twice in the course of his argument. This protracted the cause so long that, when he had finished, Lord Mansfield said that the remaining counsel should be heard the next morning. This was exactly what I wished. I had the whole night to arrange, in my chambers, what I had to say the next morning, and I took the court with their faculties awake and freshened, succeeded quite to my own satisfaction (sometimes the surest proof that you have satisfied others), and, as I marched along the hall, after the rising of the judges, the attorneys flocked around me with their retainers. I have since flourished, but I have always blessed God for the providential strangury of poor Hargrave." The rule was discharged with costs; Erskine's fame as an advocate was established, and his fortune virtually made. Being afterwards asked how he had dared to face Lord Mansfield with so bold a front, he replied that it had seemed to him as though his little children were plucking his robe and saying to him, "Now, father, is the time to get us bread." Briefs and fees now flowed in upon him in a golden stream; he practiced in the King's Bench, and there were few more

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popular barristers in Westminster Hall than Thomas Erskine. In January, 1779, he gained fresh credit as counsel for Lord Keppel, who was tried by a court-martial, and whose acquittal he secured, and from whom he received a present of £1,000 as a mark of his gratitude. In the spring of this year, he joined the Home Circuit, and soon found himself fully employed. In the same year he appeared at the bar of the House of Commons against a bill which very nearly touched the liberty of the press,—the bill introduced by Lord North, vesting the right of printing and issuing almanacs in the Stationers' Company, and the two Universities of Oxford and Cambridge. The bill was rejected by a large majority, and mainly through his eloquence, which converted Lord North's brother-in-law from a supporter to an opponent. In 1780 he defended Lord George Gordon, who was tried before Lord Mansfield for high treason on account of his share in the Protestant Riots of 1780. Here, too, in spite of the whole power of the Crown being put into force against the prisoner, and of a somewhat severe and unfavorable summing up from the Judge, he obtained for his client a verdict of "Not guilty." This acquittal, it need scarcely be added, gave a heavy blow to the law of constructive treason, as laid down by the Tory judges of the time. In 1783, on the formation of the "Coalition" Ministry, he entered Parliament as M.P. for Portsmouth, his Whig friends being anxious for the assistance of his eloquent advocacy in the House of Commons; and it is not a little singular that both he and his rival and successor in the Chancellorship, John Scott, afterwards Lord Eldon, made their

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maiden speeches in the same debate,—that on Mr. Fox's famous India Bill. But Erskine's speech was tame, and fell somewhat flat upon the ears of his audience, who possibly expected that in St. Stephen's he would equal the flights of his eloquence on the other side of Westminster Hall. He spoke on the motion for stopping the supplies in consequence of the King's refusal to dismiss his Ministers. The motion was carried, but Pitt resolved to appeal to the nation. Parliament was dissolved, and failing to secure his re-election at Portsmouth, Erskine remained for seven years out of Parliament. Perhaps it was well for him that such was the case. He had not made any great success at St. Stephen's; but though he had been only five years at the bar, he had already obtained a patent of precedence which entitled him to wear a silk gown, and to sit within the bar. His first "special retainer" was in the case of *Rex v. Shipley*, Dean of St. Asaph, for a "seditious libel,"—which was nothing else than the publication of a "Dialogue between a Gentleman and a Farmer," written by the Dean's brother-in-law, Sir William Jones, in illustration of the general principles of political economy, and quietly recommending some very moderate parliamentary reforms. The jury, in spite of a very adverse summing up of the Judge, found Dr. Shipley "guilty of publishing only," but declined to find "whether a libel or not." In the next Michaelmas Term, the case was re-opened, and practically re-heard; and Erskine moved in arrest of judgment, and with success. "This prosecution," says Lord Campbell, "seemed to establish forever the fatal doctrine that *libel or no libel*

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was a pure question of law, for the exclusive determination of judges appointed by the Crown. But in the event it led to the subversion of that doctrine, and the establishment of the liberty of the press, under the guardianship of English juries. . . . He also gave up his circuit business, and confined himself to special retainers. He kept up also his intimacy with the leaders of the Whig party, especially Fox and Sheridan, through whom he became personally acquainted with the Prince Regent—then a zealous Whig—who made him his Attorney-General. In the year 1789, as counsel for Stockdale, the publisher, he made what Lord Campbell does not hesitate to call “the finest speech ever delivered at the English bar, and which forever established the freedom of the press in England,” and of which the *Edinburgh Review* says, “It is justly regarded by all English lawyers as a consummate specimen of the art of addressing a jury—as a standard and sort of precedent for treating cases of libel.” The offense of Mr. Stockdale was the publishing of a pamphlet by the Rev. Mr. Logan, a Scottish minister, in which Warren Hastings was exculpated from the charges brought against him, and the House of Commons compared to the tribunal of the Inquisition. It is almost needless to add that the speech was followed by a verdict of “Not guilty.” In 1789, he was again returned to Parliament for Portsmouth, which he continued to represent until he was raised to the Peerage. In the following year, contrary to the advice of Lord Loughborough and some of his best friends, he held a brief for “Tom Paine,” the author of “The Rights of Man.” Here, however, he

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failed. For taking this brief, he was suspended from his office as Attorney-General to the Prince of Wales. He was equally unsuccessful in defending John Frost, against a Government presecution for seditious words spoken in a public-house; but he won a verdict, as counsel for the defense, in a far more important cause, the Government prosecution of Messrs. Perry and Grey, the proprietors of the *Morning Chronicle*, for inserting in their paper an address from a society at Derby, complaining of the unsatisfactory state of the representation of the people in Parliament. The year 1793, and the following years, have been called, in a legal sense, "The Reign of Terror," on account of the constant efforts of the Tory Administration to put down all outward expressions of political dissatisfaction by the strong hand of the law, and by arbitrary and summary prosecutions. It was in consequence of the prevalence of this spirit that Tom Hardy, a shoemaker, and eleven other obscure individuals, were put upon trial for high treason, simply as belonging to a society, or societies, whose end was parliamentary reform. Erskine was engaged for the defense of Hardy, who was acquitted, and the speech delivered on that occasion by his advocate will live forever. On the death of Pitt, Lord Grenville was sent for to form an Administration. Erskine was given the custody of the Great Seal. He took his seat on the woolsack February, 1806, as Baron Erskine. Of the principles of equity, he knew but little; and although he did his best, by the aid of other men, and by great attention to the arguments of counsel, to satisfy himself as to the merits of each case, and was eminently fair,

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honest, and impartial. In March, 1807, with his party, he was obliged to resign office. He now came forward only on rare occasions, and to oppose measures which he considered thoroughly objectionable. In 1823, he resolved to pay a visit to his brother, the Earl of Buchan, at Dryburgh Abbey, and he took ship at Blackwall for Edinburgh. On the voyage he was attacked by a serious illness; was landed at Leith, and reaching the residence of his sister-in-law, the Hon. Mrs. Henry Erskine, at Almondell, he died on the 17th of the November following, at the age of seventy-three. There is no marble monument erected by the nation to Erskine's memory, nor any mural inscription to celebrate his genius and public services; "but," to use the words of his biographer, Lord Chancellor Campbell, "the collection of his speeches will preserve his name as long as the English language endures;" and a simple narrative of his life will best show his claim to the gratitude of posterity as one who labored, and not wholly in vain, in the cause of human progress and freedom, and the advancement of enlightened legislation. "Let us imagine to ourselves," adds his biographer, "an advocate inspired by a generous love of fame, and desirous of honorably assisting in the administration of justice by obtaining redress for the injured and defending the innocent,—one who has liberally studied the science of jurisprudence, and has stored his mind and refined his taste by a general acquaintance with elegant literature,—one who has an intuitive insight into human character, and into the workings of human passion,—one who is able not only by his powers of persuasion to give

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the best chances of success to every client whom he represents in every variety of public causes, but also to defeat conspiracies against the public liberty founded on a perversion of the criminal law,—and one who, by the victories which he gains and the principles which he establishes, helps to place the free constitution of his countrymen on an imperishable basis. Such an advocate was Erskine. .

. . [Such an advocate, in my opinion, stands quite as high in the scale of true greatness as the parliamentary leader who ably opens a budget, or who lucidly explains a new system of commercial policy, or who dexterously attacks the measures of the existing Government. . . .] I will not here enter into a comparison of the respective merits of the different sorts of oratory handed down to us from antiquity ; but I may be allowed to observe that among ourselves, in the hundred and fifty volumes of “Hansard’s Debates,” there are no specimens of parliamentary harangues which, as literary compositions, are comparable to the speeches of Erskine at the bar, with the exception of Burke’s, and these were delivered to empty benches. . . . There will probably again be a debater equal to the elder or the younger Pitt, to Fox or Sheridan, Burke or Grey, before there arises another advocate equal to Thomas Erskine.”

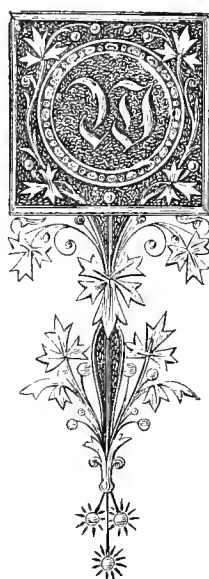
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WILLIAM SCOTT, the father of Lord Eldon, was what is known at Newcastle-on-Tyne, the great coal depot of England, as a coal-fitter, and owner of "keels." A "fitter" is a person who buys and sells coals at the pit's mouth, and who conveys them in barges or keels to where they are loaded for exportation. In this employment the paternal Scott—who was destined to be the father of two illustrious self-made men, both created Peers of the realm, Lord Stowell and Lord Eldon—amassed considerable substance. To increase his profits he is said at one time to have kept a sort of public house, for supplying his own keelmen with liquor, and he was held in high esteem among the trading community of his native town, for his strict industry and frugality. His wife was a model of domestic virtue, and of such superior understanding, that the great talents of her two distinguished sons are said to have been inherited from her. The birth both of William—Lord Stowell—and of John, the future Chancellor, was in each case accompanied by a twin sister, and there is quite a romance attached to Mrs. Scott's accouchment

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with the former pair, which happened in the year 1745 when Bonnie Prince Charlie crossed the border. Newcastle being fortified, all egress was prohibited to the inhabitants; so Mrs. Scott, being in fear of the violence of the Highlanders, had herself hoisted over the wall in a large basket, and safely descending to the water-side, was conveyed to a neighboring village, where her confinement took place. The future Chancellor's birth was six years later, and after the retreat of the Chevalier from Derby. It occurred on the 4th of June, 1751, at his father's house in Love Lane, Newcastle, which is a narrow passage between two streets, called in Scotland a "wynd," but in Northumberland a "chase." Very little is related of Master Jackey, save that he had a great faculty when tumbling down flights of steps, of always alighting on his legs. He was educated at the Free Grammar School, where he showed a habit of steady application, and contrived to lay in a large stock of classical knowledge. His father, whose Bible and ledger were his sole library, when requiring from his two boys on Sunday evenings an account of the sermon, is said to have remarked, that whereas William could give a digest of the general argument, John could recapitulate the minutiae of the discourse, and repeat the very phrases of the preacher. John appears to have been a thoroughly reckless and daring schoolboy, given to playing truant and robbing orchards, for the latter of which offenses he relates that, being brought before the magistrates, his father was fined thirty shillings, which he says occasioned his first being flogged by his father, then again by the schoolmaster. He also relates that he possessed the art of blowing out the

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candles in the shops, and escaping detection, and how having lost his hat in a scuffle, his father made him go three months bare-headed except on Sundays. "We used," he also says, "early on Sunday evenings, to steal flowers from the gardens in the neighborhood, and present them to our sweethearts. Oh! those were happy days,—we were always in love!" In spite of those youthful pranks, he had made great progress in his studies, and was well exercised in English composition, and a good classical scholar at fifteen. His father was then about to bind him apprentice to his own trade of a coal-fitter, but first wrote to his eldest son William, who at sixteen had gained a Durham scholarship at Corpus Christi College, Oxford, to inform him of his intention. He wrote back to his father: "Send Jack up to me; I can do better for him here;" and Jack was accordingly sent off by the stage-coach, which, bearing in its panels the inscription, "*Sat cito si sat bene*," took three days and four nights to reach London, by what was then considered rapid traveling. Under the admirable tuition of his brother, he became very regular in his habits at the University, and, as a proof of his wonderful proficiency, was elected a fellow of his College, when he had just completed his sixteenth year. On the 20th of July, 1770, he took his bachelor's degree, but he still continued to reside in the classic bowers of Oxford, prosecuting his studies diligently, and in the following year, took the prize for the Oxford English essay, the subject being "The advantages and disadvantages of foreign travel." Just after he came of age, John Scott committed the indiscretion of marriage, not only without having any means wherewith to support a

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wife, but by the very act losing his college fellowship and its emoluments. Had it not been for his wonderful industry and mental powers, his brother William's remarks, when the news transpired at Oxford, might have come true, who said to a friend: "I suppose you have heard of the very foolish act of my very foolish brother. He is completely ruined, nor can anything now save him from beggary. I had good hopes of him till this last confounded step destroyed them all." Miss Bessy Surtees was the daughter of a wealthy Newcastle banker, whose acquaintance Scott made accidentally, when she was traveling in company with a maiden aunt. Her father held his head high in Newcastle, and bankers and coal-fitters were considered the opposite extremes of the trading world. It was thought, too, that he had destined her to be the wife of Sir William Blackett, member of Parliament, who went by the title of the "King of Newcastle." Her flirtations with the future Chancellor were therefore surreptitious, and the Surtees family getting an inkling of the affair, and their pride being hurt by the very idea of their beautiful daughter marrying the son of old Scott, who kept a public house for his keelmen, they sent the young lady to London, where she was introduced into society by the Duchess of Northumberland as "my Newcastle beauty." The strict injunction that she should have no intercourse, by word, letter, or signal, with Mr. John Scott, was obeyed as such commands usually are. The eager lover followed her, and although he sought her in vain at masquerade, at Ranelagh, and at the opera house, at last, by watching in Park Lane, he traced her to Hyde Park, and, contriving interviews with her, their vows were renewed.

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On her return to Newcastle, she contrived a meeting with him, and, having consented to an elopement, on the night of November 18th, 1772, she descended a ladder from her father's house, and, a post-chaise waiting for them, they crossed over the border, and were married at Blackshiels, within two stages of Edinburgh, on the following day. On the third day after their wedding, their funds being entirely exhausted, Eldon's younger brother, Henry, brought them an olive branch from the old coal-fitter, and they returned to Love Lane, Newcastle. The old banker was mightily displeased, but was ultimately induced to recognize his son-in-law. So abject were John Scott's fortunes at this time that a wealthy grocer, who was childless, and took compassion on his destitute condition, offered to give him a half share of his lucrative business without premium; and the great lawyer barely escaped being doomed to sell figs and raisins for the remainder of his life. William, however, again stood by him, and at his request he returned, wife and all, to Oxford, entering himself on the 28th of June, 1773, a member of the Middle Temple. His wife's extreme beauty passed as a good apology for his indiscretion. She would sit up with him during his midnight studies, watching him with silent affection, and was ever ready to exercise self-denial for his sake. He was shortly appointed Vice Principal of New Inn Hall, and Vice Law Professor, in which latter capacity he relates the amusing fact that his *début* as a professor consisted in a reading upon the statute relating to young men running away with maidens. He says, "Fancy me reading with about 140 boys and young men, all giggling at the Professor! Such a

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tittering audience no one ever had!" During his residence at Oxford, Dr. Samuel Johnson was a frequent visitor at his house, of whom he was in after-life very fond of relating stories. One of the best is the following. He says, "I had a walk in New Inn Hall garden with Dr. Johnson, Sir Robert Chambers, and some other gentlemen. Sir Robert was gathering snails, and throwing them over the wall into his neighbor's garden. The Doctor reproached him very roughly, asserting that this was unmannerly and unneighborly. 'Sir,' said Sir Robert, 'my neighbor is a dissenter.' 'Oh'! said the Doctor, 'if so, Chambers, toss away, toss away as hard as you can.'" Before he was called to the Bar, which was in 1776, he left Oxford, and diligently attending the Courts at Westminster, took a house in Cursitor Street, Chancery Lane, but he was too poor to be able to pay a pupil's fee to a special pleader, or equity draughtsman, and relates that "many a time have I run down from Cursitor Street to Fleet market to buy sixpenn'orth of sprats for our supper." Mr. Duane, an eminent conveyancer, however, very kindly gave him the run of his chambers for six months, without a fee, where he was able to make a gigantic collection of precedents. He was cheated out of his maiden fee by a dapper-looking attorney's clerk, who professed to have forgotten it, and never returned; and all the emolument he derived from his profession during the first twelve months was half a guinea; but, being employed as counsel in the following year, in a petition against the Newcastle election, he received an honorarium of 200 guineas for his services, and in the same year had a general retainer from the Corporation of Newcastle, and a brief to support

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a claim of the Duke of Northumberland. He now transferred himself from the King's Bench to the Court of Chancery; but this did not immediately succeed, and had he not shortly made more progress he would doubtless have exchanged his metropolitan for a provincial practice. His fortune was, however, made by his magnificent argument in the case of *Akroyd v. Smithson*, which caused him next day to wake and find himself famous, and an uninterrupted tide of prosperity now flowed in upon him for the remainder of his life. He was wont to assert that he first got into notice on circuit by "breaking the ten commandments," the explanation of which was that, being counsel in a cause in which everything depended on proving who was the founder of an ancient chapel, he found a hidden arch in it, concealed by plastering which he removed, on which the commandments were written, and the engraved arms of the ancestors of one of the parties to the action underneath. At the grand Courts of the Circuit, he was wont to enter freely into the trial for mock offenses, and other frolicsome proceedings of his brethern of the Bar, of some of which he left very amusing accounts. He relates also the following very extraordinary story, as having occurred to Dr. Johnson's friend, Jemmy Boswell, at the Lancaster Assizes. He says, "Boswell having been found lying upon the pavement, inebriated, we subscribed a guinea for him, and sent him a brief, with instructions to move for what we denominated the writ of 'quare adhocsit pavimento.' He sent to all the attorneys of the town for books to guide him, but in vain. The Judge said: 'I never heard of such a writ,—what can it be, that 'adhocsit pavi-

mento.'” At length one of the Bar said: “My Lord, Mr Boswell last night ‘adhœsit pavimento.’ There was no moving him for some time. At last he was carried to bed, and he has been dreaming about himself and the pavement.” In a very short time Scott was making £3,000 a year, in case answering alone, and on June 4, 1783, he was promoted to a silk gown. Up to this time he had never meddled in party politics, but in the same year he was induced by Lord Thurlow to enlist under the banner of the opposition, and to become a “King’s friend.” The ex-Chancellor speedily got him returned for a village in Herefordshire—long ago disfranchised—called Weobly, where by ancient custom the aspirant to Parliamentary honors began his canvass by kissing the prettiest girl in the place, and was of course returned without opposition. His earlier speeches in the House were by no means a success, but he distinguished himself shortly in a speech on the Westminster Election, and in a discussion upon the liability of the East India Company to pay the cost of the military force in their territory; and at length, to the high contentment of the Bar, Mr. John Scott was made Solicitor-General. He did not care for the dignity of knighthood which he wished if possible to avoid, and writes to his brother: “I kissed the King’s hand yesterday, as Solicitor-General. The King, in spite of my teeth, laid his sword upon my shoulder, and bade ‘Sir John’ arise. I was completely taken in, having no idea that the King had any such intention. My wife is persecuted with her new title, and we laugh at her from morning till evening.” Immediately after his elevation the King’s intellect became so much disturbed,

that the royal authority was in complete abeyance, and his person under restraint. At this important juncture, Sir John Scott ably supported Mr. Pitt in asserting the right of the two Houses of Parliament to appoint a regent, and confer upon him such powers as they thought fit. In 1792, after a very quiet official life of four years, he was appointed Attorney-General, and in that capacity, as prosecutor for the Crown, he carried out a "reign of terror." He had induced the King to believe that he had lost in emolument by undertaking the office of Crown lawyer, in reply to which George the Third rather cunningly said, "Oh, then, for the first time I comprehend what I never could before understand,—why it has been always so difficult to get any opinions from my law officers." It appears, however, that instead of being compelled to sup on six-penn'orth of sprats, Sir John in a few years was able to buy the fine estate of Eldon in Durham, from which he afterwards took his title, and that during the thirteen years he was Solicitor and Attorney-General, his official income alone averaged £10,000 a year. As public prosecutor, he conducted the case against John Frost for foolish words spoken after dinner in a coffee-house, in a country professedly allowing of liberty of speech, who was condemned to six months in Newgate, and to stand in the pillory at Charing Cross: while during his prosecution of Hardy, Horne Tooke, and Thelwall for high treason, he became about the most unpopular man in the country. On the trial of Horne Tooke, speaking of the design imputed to the conspirators to compel the King to govern against his coronation oath, Mr. Attorney-General said, "He ought to lose his life, and I trust will be

willing to lose his life, rather than to govern contrary to that coronation oath." *Mr. Tooke*.—"What! is the Attorney-General talking treason? I should be unhappy to mistake you; did you say the king ought to lose his life?" *Attorney-General*.—"It is really difficult to decide for one's self whether this interruption is or is not proper." *Mr. Tooke*.—"I ask pardon of the learned gentleman; and I promise I will not interrupt him again during the whole of his reply. I only wished to know whether, in prosecuting me for high treason, the Attorney-General intentionally said something far worse than anything he has proved against me." On the verdict of "not guilty" being pronounced, Tooke declared, in a solemn manner, that if he should have the misfortune to be indicted for high treason again, he would immediately plead "guilty," as he considered hanging and beheading preferable to the long speeches of Sir John Scott. His last prosecutions for high treason were against Arthur O'Connor, John Binns, and the Rev. James O'Coigley, for inviting foreign invasion, the latter of whom was convicted; but it was the Attorney-General's almost invariable fate to be defeated in the Criminal Courts. The dangers of French principles were quite as formidable to his mind at this period as the perils of French invasion, and he never neglected an opportunity of descanting on the former; while, in view of the latter, he relates that he bought a gun and a bayonet, although he says that, having, with Lord Ellenborough, joined the Lincoln's Inn Volunteers, they were both "turned out of the awkward squad for awkwardness." In July, 1799, on the death of Sir James Eyre, Chief Justice of the Common Pleas, Sir John Scott

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was promoted to that dignity, and made a Peer by the title of Baron Eldon, under which designation he first signed his name in a letter to his mother, who was still living. Two years later he reached the height of his ambition as Chancellor. On the 14th of April, 1801, the transfer of the Great Seal took place, and Eldon thus describes the scene as a striking proof of the King's fondness for him: "When I went to him he had his coat buttoned thus (one or two buttons fastened at the lower part), and, putting his right hand within, he drew out the seals from the left side, saying, 'I give them to you from my heart!'" From that time through the remainder of George the Third's life, and during all his states of mental alienation, Lord Eldon ever exercised a peculiar control over him, which he turned to full account. He always called himself "the King's Chancellor," as if his position were altogether separate from the tenure of office by the Ministry and the Premier. As keeper of the Royal conscience he may have had special privileges in his own opinion; while as Chancellor, during the severer attacks of the King's illness, it was his duty to pay a daily visit to him to ascertain his condition. George quite favored his idea, and as a specimen of his style of address, would write, "on returning from walking, the King has found his Chancellor's letter," thus always giving him precedence before his other Ministers. Visiting his majesty on one occasion at Buckingham Palace, Eldon was told by Dr. Simmons, his medical attendant, that he could not allow the King to walk in the garden of that palace with an attendant, as it was so overlooked and reports would spread. Eldon immediately volun-

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teered, and the doctor told the King the Chancellor had come to take a walk with him. "With all my heart," said the King, as he called for his hat and cane. Eldon says "there was a momentary incoherence in his talk, but during the rest of the walk there was not the slightest aberration in his conversation, and he gave me the history of every administration in his reign. When he returned into the house, His Majesty, laying down his hat and cane, placed his head upon my shoulder, and burst into tears." Lord Eldon must in fact have seen more of this mad and obstinate monarch than any public man of his day, and in a communicative mood, the wary Chancellor related that on one occasion the King complained to him that a man in the employ of one of his physicians had knocked him down. "When I got up again," added the King, "I said my foot had slipped, and ascribed my fall to that: for it would not do for me to admit that a King had been knocked down by any one." So complete was Lord Eldon's mastery over the King, that in 1804, by a well-managed intrigue, Mr. Addington was shoved out of office to give place to Mr. Pitt, Eldon still remaining keeper of the Great Seal, which occasioned his being not unjustly called, "the ally within the besieged garrison, who opened the gate under the cloud of night, while the rest slept." He was soon employed in a very difficult negotiation between the King and the Prince of Wales, who had long been at open enmity. He was therefore for a long time distasteful to the latter. Having, at Lady Eldon's request, when he was raised to the Bench, requested the King to allow him to wear his own hair save when sitting in Court, the Prince of Wales,

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being deeply annoyed with him once, said, "I am not the sort of person to let my hair grow under my wig to please my wife." *Lord Eldon*.—"Your Royal Highness condescends to be personal. I beg leave to withdraw." He accordingly bowed very low, and retired. The Prince caused a note to be written to him next day, to say that "the phrase he made use of was nothing personal, but simply a proverb," and Eldon lived not only to be called his Chancellor, but to be endearingly addressed by him as "Old Bags." On the death of Pitt, in January, 1806, Lord Eldon ceased to be chancellor, when the new government of Fox and Grenville, which he did not intrigue to prevent, came into office, and he was succeeded on the woolsack by Lord Erskine. Even on that occasion the King could not take leave of him without emotion. When about to surrender his insignia of office he says, "the King appeared for a few moments to occupy himself with other things;" suddenly looking up he exclaimed, 'Lay them down on the sofa, for I can not and I will not take them from you. Yet I admit you can't stay, when all the rest have run away.'" However, in the April of the following year, Eldon was again Chancellor, and so remained during the thirteen more years of George the Third's reign. As long as the King was able to execute the functions of government, Eldon served him zealously and faithfully; but it was equally his interest and duty to worship "the rising sun," and we find him, after gradually endeavoring to ingratiate himself into the good graces of the Prince, so far succeeding, that he is addressed by the Prince as his dear friend, who signs himself "most sincerely yours;" and invited him and Lord Stowell to warm

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beds, turkey, and chine, and last, though not least in love, a Newcastle dish known as liver and crow, adding, in a postscript,—for he was always asking him for chancery livings:—"N. B. No church preferment will be requested on this occasion." Eldon was created an earl by George the Fourth, and finally delivered up the Great Seal on the 1st of May, 1827. Having been officially present as Lord Chancellor on the 24th of May, 1819, when the Duchess of Kent gave birth to a princess, who was heir to the throne, Lord Eldon was particularly desirous of taking his seat in the House of Peers when the young Queen of eighteen should deliver her first speech from the throne. With this object he went down to the House of Lords and took the oaths and signed the roll of the new Parliament; but his last illness was coming rapidly upon him, and he was unable to be present. As he looked upon his conduct as a public man as perfectly consistent, if not spotless, he is said to have shown quite a refractory disposition when Dr. Philpotts, the Bishop of Exeter, in the spirit of a faithful Christian pastor, pointed out to him his need of pardon as a dying man; and as if, indeed, some personal disrespect had been shown him. His last words are singular. His medical attendant having greeted him with the remark, "It is a cold day, my lord," he replied, "It matters not to me where I am going whether the weather here be hot or cold." And he expired, without a groan, on the afternoon of the same day, January 13th, 1838, in his eighty-seventh year.

SAMUEL WARREN



SAMUEL WARREN.

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SAMUEL WARREN



ETTER known to the community at large by his "Diary of a Late Physician," and "Ten Thousand a Year," than as the author of numerous valuable contributions to legal jurisprudence, Dr. Samuel Warren — for he possesses the dignity of a doctor of civil law — will always be esteemed not only as a sound and learned lawyer, but as a remarkably able novelist, whose works evince great vividness and marvelous descriptive power. Had he not lived in the days of such giants of fiction as Dickens, Lytton, and Thackeray, he would have had few to match him in original creative power and his delineation of the pathetic. He has not — as too many authors do — over-written himself; and for more than twenty years has contributed nothing to fiction, which by the reading public can not be viewed otherwise than as a subject for regret. Samuel Warren was born in Denbighshire, in the year 1807. His father, the Rev. Samuel Warren, LL.D., having been trained as a minister of the Wesleyan Communion, eventually took orders in the Church of England, and became the Incumbent of All Souls' Church, Manches-

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ter. As a preacher, the Rev. Dr. Warren enjoyed considerable reputation, his style being remarkably clear, and his evangelical doctrine ever breathed in a devout spirit; while he was not unknown as an author. Having been carefully trained by this excellent father, young Warren was sent to Edinburgh with the intention of qualifying himself for the medical profession. He seems, however, to have addicted himself more to other studies than those properly belonging to a medical student, for we find that in his first year at Edinburgh, he carried off two prizes from the University, one being for poetry, and the other for an essay upon comparative jurisprudence. In the year 1828, having changed his idea of a profession, and preferring law to medicine, Samuel Warren entered himself as a student of the Inner Temple, London; and, three years later, beginning to practice as a special pleader, continued chamber practice until he was called to the Bar in 1837. In 1830, when he was only twenty-two years of age, he commenced, in the pages of "*Blackwood's Magazine*," a series of sketches which he entitled, "Passages from the Diary of a Late Physician," in which he seems to have turned to wonderful account the unfinished medical education for which he had preferred to substitute the study of law. The Diary, commencing in August, 1830, was carried on at intervals in the pages of the great Northern review, to which he offered it, after having in vain endeavored to dispose of it to the London publishers, who all concurred to reject it; generally alleging as a reason that the subject was an unattractive one, and that the papers would find no readers. Not many numbers of it, however, had appeared before the anony-

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mous author took a foremost rank in the estimation of the literary world, and gained for himself from cotemporaneous authors—who could never have imagined that he was only a mere boy, and a tyro in letters—the profoundest expressions of respect. The variety of incident and character, fidelity of delineation, vigorous style, pathos, and commanding knowledge of men and human passions displayed in these sketches, made them at once eagerly sought and greedily perused. Some of the titles of the sketches of life and death would have been very suitable to low-class novelettes and sensation plays, but the manner in which Warren handled such subjects as “Intrigue and Madness,” “The Spectral Dog,” the “Man about Town,” who dies with hideous frights of hell, and others, redeems them from the over-expressiveness of their titles. For those who love horrors, a perfect feast was provided by this juvenile law student; and by the religious world the work was highly applauded, as tending to promote a general terror of evil-doing, and frightening from vice. Warren’s graphic power of delineation was admirably expressed by Sir Archibald Alison, the historian, in the following terms. He says: “Mr. Warren has taken a lasting place among the imaginative writers of this period of English history. He possesses in a remarkable manner the tenderness of heart and vividness of feeling, as well as powers of description, which are essential in the delineation of the pathetic, and which, when existing in the degree in which he enjoys them, fill his pages with scenes which can never be forgotten.” Two of his most startling delineations in “Passages from the Diary of a Late Physician,” are to be found in “A Scholar’s

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Deathbed" and "Death at the Toilet." In the former, Warren depicts a starved scholar's slow death, whose powerful intellect is not enfeebled by the ravages of disease, and who quotes Aristophanes and Æschylus almost with his dying breath. The last scene is thus related: "'Why are you taking the candles away, nurse?' he inquired. They had not been touched. His cold fingers gently compressed my hand—they were stiffened with death. 'Don't! don't! put the candles out, doctor,' he commenced again, looking at me with an eye on which the thick mists and shadows of the grave were settling fast—they were filmy and glazed. 'Don't! don't! blow them out—don't! don't!' he exclaimed almost inaudibly. 'No, we will not, Mr. —; both candles are burning brightly beside you on the table,' I replied tremulously, for I saw the senses were forgetting their functions, and that life and consciousness were fast retiring. 'Well,' he murmured almost inarticulately, 'I am now quite in darkness! Oh there is something at my heart cold, cold. Doctor, keep them off!' and he was dead." "Death at the Toilet" occurs to a vain, frivolous, conceited creature, a young lady twenty years of age, who, with severe liver complaint, persists in dissipation; and in spite of her mother's remonstrances, insists on going to a ball, saying, "I will go, if I die for it." The terrible scene on the arrival of the physician is described in the following words: "The room was occupied by a white-curtained bed. There was but one window, and before it was a table, on which stood a looking-glass, hung with a little white drapery, and various articles of the toilet lay scattered about,—pins, brooches, curling-papers, ribbons, gloves, etc. An arm-chair was drawn to the table, and in

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it sat Miss J——, stone dead. The head rested upon her right hand, her elbow supported by the table, while her left hung down by her side grasping a pair of curling irons. Each of her wrists was encircled by a showy gilt bracelet. She was draped in a white muslin frock with a little bordering of blonde. Her face was turned toward the glass, which by the light of the expiring candle reflected with frightful fidelity the clammy, fixed features, daubed over with rouge and carmine, and the fallen lower jaw, and the eyes directed full into the glass with a cold, dull stare that was appalling. On examining the countenance more narrowly, I thought I detected a smirk of conceit and self-complacency which not even the palsying touch of death could wholly obliterate. The hair of the corpse, all smooth and glossy, was curled with elaborate precision, and the skinny, sallow neck was encircled with a string of glistening pearls. The ghastly visage of death, thus leering through the tinsel of fashion—the vain show of artificial joy was a horrible mockery of the fooleries of life. I have seen hundreds of corpses, as well in the calm composure of natural death, as mangled and distorted by violence, but never have I seen so startling a satire upon human vanity, so repulsive unsightly and loathsome a spectacle as a corpse dressed for a ball.” In spite of some severe criticism in the pages of the *“British Quarterly”* and other reviews, which accused Warren of morbid sentimentalism and an over-dispensation of horrors, and asserted that the book was made up entirely of fainting fits, hysteria, and sal volatile, the *“Diary of a Late Physician”* had an enormous run, was translated into French and German, and stereotyped in America. These

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literary labors of Warren were, however, concurrent with the severest application to the study of the Law, and he soon obtained a reputation not only as a legal plodder and very careful special pleader, but as the author of some very valuable Law books. Eight years elapsed between the publication of the "Diary of a Late Physician," and his next contribution to light literature in the pages of "*Blackwood's Magazine*," "Ten Thousand a Year." During that time he published first a "Popular and Practical Introduction to Law Studies," and two years later edited "Select Extracts from Blackstone," while he also gave to the public an able pamphlet upon the "Opium Question," which was then engaging the attention of the English people. His "Introduction to Law Studies" met with the marked approval of the profession generally, and called forth the praise of Sir Frederick Thesiger, afterwards Lord Chancellor Chelmsford, who said that it was "admirably planned and equally well executed." Some years later he published many more works, both of a legal and political character, including a dissertation on "the Moral, Social, and Professional Duties of Attorneys," "a Letter to the Queen on a recent Court Martial," a pamphlet on "the Queen and the Pope," considered in the political and legal aspects of their separate authorities, a "Manual of the Law and Practice of Elections," another edition of Blackstone, and also a work on the "Intellectual and Moral Developments of the Present Age." In 1839, there appeared in "*Blackwood's Magazine*" the first pages of "Ten Thousand a Year," which may be called Warren's first novel. Being no longer a writer of mere sketches, the plot in this work is not

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found subordinate to its composition; but in a masterly tale the author reveals the secret springs of human action, and the hidden soul of the world. Like his former work in Blackwood, it was published anonymously, and, during the two years of its gradual appearance, public attention never flagged, while the incognito of authorship was preserved to the end. In this novel, the whole story hangs upon a miserable creature named Tittlebat Titmouse, an uneducated, sensual wretch, who suddenly finds himself, through an advertisement for the next of kin of Gabriel Tittlebat Titmouse, a deceased cordwainer of Whitehaven, the heir to a large fortune. He is a very much lower type of coarse vulgarity than Dickens's famous Dick Swiveller, and having at length risen by his wealth, so far as to get elected a member of Parliament, he gradually subsides, until, by the discovery of his illegitimate birth, he gets again into the station which he is most qualified to adorn. Warren's sketches in this work of the English system of Parliamentary elections are most entertaining, but he immortalized himself most in his wonderful creation of the firm of Quirk, Gammon and Snap, Attorneys-at-Law, through whom Tittlebat Titmouse hears of his good fortune. "*The British Quarterly*," which somewhat severely criticised this and Warren's other works, says of the character of Gammon, who has an ingenious method of making his partner, Quirk, his invariable scapegoat: "As a work of art we consider Gammon decidedly the finest and most finished of his productions. His character is well conceived, and its development is worked out with equal strength and precision. He is a harmonious whole; there are no inconsistencies

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about him. The concentration of thought and energy which he brings to bear upon his ends, and the unswerving steadiness with which those ends are pursued, are, as a mere intellectual manifestation, beautiful. He is a man all head, without a heart to mar its operations, for even his love for Kate Aubrey is ungenerously woven into his plans, so as in his design to bear its part in the accomplishment of his purpose. Mere cleverness might suffice to create that detestible animal, Titmouse, who excites in us mere loathing, but a Gammon requires and evinces qualities of a much higher order, and him we regard with a kind of respectful horror." Six years now elapsed before he produced another novel, which he did in 1847, under the title of "Now and Then." It fully bore out his established literary reputation, and was fresh, racy, and pure, investing the institution of Christmas with its legitimate, beneficent, and catholic associations. The gentle Lady Emily, the indefatigable clergyman Hylton, and the old Saxon Ayliffe sublimely illustrating feeling, and the influence of faith, are all characters which will live: and the work altogether, as vindicating in the lives of fictional persons God's ways to man, may be said to contain a current of piety as lucid as a stream. Nor is it only in the higher walks of life that Warren's characters were faithful portraitures, for he is especially careful to do justice in all respects to humbler life. In 1851, on the occasion of the opening of the first great International Exhibition in London, which was projected by the Prince Consort, and carried out under his immediate auspices, Warren published a work of prose poetry, entitled "The Lily and the Bee." It was subjected to a good deal of

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unfavorable criticism ; and, standing alone, would not certainly maintain the fame of an author. It contains a great deal of adulation of the Queen and Prince Albert, for each of whom he claims a direct descent from Alfred the Great—who was known by the titles of “the Shepherd of his People,” and “the Darling of the English”—and Charlemagne. The great occasion of the opening of this magnificent Industrial undertaking by the English Court, in the presence of 61,000 spectators, Warren compares to two events in scripture history,—the erection of the Tower of Babel, and of the golden image by King Nebuchadnezzar. The event of 1851, however, as he points out, was not to inaugurate an idol, or dedicate an image, but, in the hallowed presence of Him whom Nebuchadnezzar had dishonored, to bow before Him, the Lord of heaven and earth, to cement universal brotherhood, telling in sublime accents of man in his relations to the earth, man in his relations to man, and man in his relations to God. The following beautiful passage will give some idea of the work : “Where shall the eye find rest, and where the mind, in this Palace, vividly bright and vast ! I catch contagion from the eager life, restlessly streaming round. All ear, all eye, all sense, all soul, and all assailed at once. Rarer and rarer seems the air, with the spirit of mankind mysteriously instinct to power, daring highest feats, crowning defeats. Achievement looking proudly down on vanquishing impossibility. Where’er I go, where’er I look, I see triumphant intellect. Reason, supreme, severe—all real. Ah ! yonder—Fancy, with fantastic, unreality, gracefully frolicking. Puck ! Ariel ! Oberon ! Titania ! sprites mimicking grand

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airs of man. Up, master Puck, thou merry wanderer of the night! go put thy girdle round about the earth in forty minutes! Off on thy journey, lingering not in this enchanted Palace. Haste! haste for our Titania's bidding has already flown on hidden wire the globe all round, over land and under ocean, and all her folk are looking out to see thee flying by, binding her realms with unseen cincture. Quick! Puck, outrun the lightning!" Comparing the England of Alfred with that British Empire upon which the sun never sets, he says: "But Alfred also mused upon his own dear sceptred isle, his little realm,—little once, not now,—so great become,—grown like a grain of mustard-seed; when sown less than all seeds in earth—but grown and waxed a great tree, and shooting out great branches. Yes, venerable shade—majestic gliding o'er the spot where stood so short awhile ago—she wears your crown!" In the same year in which the "Lily and the Bee" appeared, Warren was made a Queen's Counsel, and three years later he was appointed to the Recordship of Kingston-upon-Hull, generally known as Hull, the great seaport town of Yorkshire. In 1856, Warren entered Parliament, where he failed to make any mark as a debater. He had always been a staunch conservative, and had rendered the cause of Lord Derby and the Tories considerable assistance by his series of able political articles in the pages of "*Blackwood's Magazine*." Services of this kind to a government, or an opposition, must sooner or later bring their reward; and although in the two Parliaments in which he sat for Midhurst, Warren by no means distinguished himself as a politician, his time was sure to come when the

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Tories, so long kept out of power by the Peelite secession, had an opportunity of requiting them. We accordingly find that Sir Frederick Thesiger, when placed on the woolsack by the title of Lord Chelmsford, not only bore him in mind, but provided for him in a way which was as suitable to him as useful to the country. In those marvelous studies which were presented to the public, under the title of "Passages from the Diary of a Late Physician," Warren paid great attention to the phenomena of mental disease which he depicted with most vivid power. He seems to have "supped full of horrors," in all the details of maniacal delusions, and gives his readers the idea that his forte would have been in mad doctering. This peculiar feature in his earlier writings, combined with his acknowledged and profound legal acquirements, pointed to him as an unmistakably fit Commissioner of Lunacy. In "the Turned Head," "the Spectral Dog," "Intrigue and Madness," "the Spectre-Smitten," and other sketches, he not only shows an intimate knowledge of the workings of mental disease, but also of the best curative systems. Who, then, better to decide in cases of appeal upon every issue raised upon the subject, or in behalf of his afflicted fellow-countrymen? Some of the passages in the "Diary" upon this subject are deserving of quotation. In the "Ruined Merchant" the following affecting scene is depicted: "Mr. Dudleigh is hard at work, making his daughter a cowslip wreath out of some flowers given him by his keeper. When I took my leave to-day he accompanied me as usual down stairs, and led the way into the little back parlor. He then shut the door, and told me he wished me to bring him an

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honest lawyer to make his will, for that he was going to settle 200,000*l.* upon his daughter. Of course I put him off with promises to look out for what he asked. As I shook his hand at parting, he stared suddenly at me, and said: 'Doctor D——, my daughter is very slow getting well, isn't she?' I am still in attendance on poor unfortunate Miss Dudleigh. The scenes I have to encounter are often anguishing, and even heart-breaking. She lingers on day after day, and week after week, in increasing pain. By the bedside of the dying girl sits the figure of an elderly, gray-haired man, dressed in neat and simple mourning; now gazing into vacancy with lack-lustre eyes, and then suddenly kissing her hand with childish eagerness, and chattering mere gibberish to her. It is her idiot father. She insisted on his being allowed to continue with her, and consented that a proper person should be in constant attendance on him. She herself could manage him, she said, and so it proved. He is a mere child in her hands. If he is inclined to be mischievous or obstreperous,—which is very seldom,—if she do but say 'hush!' or lift up her trembling finger, or fix her eye upon him reprovngly, he is instantly cowed, and runs up to kiss her and be friends. He often falls down on his knees when he thinks he has offended her, and cries like a child." In the "Spectre-Smitten" Warren gives the following awful scene of a deluded mind: "He took the candle in his hand, and was making for bed, when his eyes caught the glimpse of an object which brought him senseless to the floor. The furniture of his room was disposed as he had left it, for his laundress had neglected to

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come and put things in order. The table, with a few books on it, was drawn towards the fire-place, and by its side stood the ample-cushioned arm-chair. The first object visible with sudden distinctness, was a figure sitting in the arm-chair. It was that of a gentleman, draped in dark-colored clothes; his hands, white as alabaster, closed together over his lap, and the face looking away, but it turned slowly toward Mr. —, revealing to him a countenance of ghastly hue; the features glowing like steel heated to a white heat, and the two eyes turned full towards him, and blazing—absolutely blazing, he described it—with a most horrible lustre. The appalling spectre, while Mr. —'s eyes were riveted upon it, though glazing fast with fright, slowly rose from its seat, stretched out both arms, and seemed approaching him, when he fell senseless on the floor, as if smitten with apoplexy." But the following outline of remedial treatment, which he gives in "Intrigue and Madness," deserves to be studied by every one who has charge of the mentally afflicted: "To me nothing is so affecting, so terrible, so humiliating, as to see a powerful intellect like that of Mr. Warrington, the prey of insanity; exhibiting glimpses of greatness and beauty amid all the chaotic gloom and havoc of madness, reminding one of the mighty fragments of some dilapidated structure of Greece or Rome, mouldering apart from one another; still displaying the exquisite moulding and chiseling of the artist, and enhancing the beholder's regret that so glorious a fabric should have been destroyed by the ruthless hand of Time. Insanity, indeed, makes the most fearful inroads on an intellect distinguished by its activity, and the flame is fed rapidly by the fuel

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afforded from an excitable and vigorous fancy. A tremendous responsibility is incurred in such cases by the medical attendants. Long experience has convinced me that the only successful way of dealing with such patients as Mr. Warrington, is by chiming in readily with their fancies, without seeming in the slightest degree shocked or alarmed by the most monstrous extravagances. The patient must never be startled by any appearance of surprise or apprehension from those around him; never irritated by contradiction, or indications of impatience. Should this be done by some inexperienced attendant, the mischief may prove irremediable by any subsequent treatment; the flame will blaze out with a fury which will consume instantly every vestige of intellectual structure, leaving the body or shell—the bare blackened walls alone—a scoff, a jest, a by-word through the world.” The appointment of Commissioner of Lunacy, which was bestowed upon him in February, 1859, Warren still retains. To it is attached an income of 2,000*l.* a year; but in consequence of ill-health, and the increasing business of his more important office, he has recently resigned the Recordship of Hull

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— Thomas More

— Thomas More

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HE extreme purity of life, and deep religious convictions of Sir Thomas More, coupled with the fact that he was hounded to the scaffold by the courtly myrmidons of Henry the Eighth, for refusing the oath of Royal supremacy in matters of religious belief, place him on a very high pedestal of personal virtue; and entitle him, equally with St. Thomas A'Becket, to be considered a martyr Chancellor of England. He was the son of Sir John More, a puisne Judge of the Court of King's Bench, and was born in the year 1480, near the end of the reign of Edward the Fourth. His father lived to see him Chancellor, and died at the age of ninety; and it is related as a beautiful indication of More's filial piety, that, before taking his seat as Chancellor in his own Court, he was wont to repair to the Court of King's Bench every morning to ask on his knees his father's blessing. Sir Thomas had been early indoctrinated by his father with habits of frugality, and with a conviction of the necessity of industry, energy, and perseverance to gain distinction in the world. Even when sent to the University, his father kept

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him so scantily supplied with money, that he says he had barely sufficient to pay for the mending of his clothes, a privation however to which, when he came to riper years, he traced his having been "curbed from vice, and withdrawn from gaming and naughty company." As the lawyers of those days, both Judges and barristers, lived in the city, we find that the future Chancellor first saw the light in Milk Street, Cheapside; and that to the school of St. Anthony, in Threadneedle Street,—which produced Archbishops Heath and Whitgift, and other eniment men,—he was indebted for his early education. At the age of fifteen he became page to Cardinal Morton, Archbishop of Canterbury, and Chancellor, who, having united the red and white roses, and as a wary courtier flourished under all political vicissitudes, now enjoyed the full confidence of the founder of the House of Tudor. The venerable Cardinal took a great interest in More, who with sons of the best families in England waited at his table, and was instructed in all learning and exercises in the palace. He was so delighted with his wit and jests when he performed at the Christmas merri-ments and other occasional plays, that he is reported to have said of him, "this child here waiting at the table, whosoever shall live to see it, will prove a marvelous rare man." By the advice of his patron, he was shortly sent to the University of Oxford, where he devoted himself with much assiduity and enthusiasm to study at Canterbury College, now known as Christ Church. Besides profiting in rhetoric, logic, and philosophy, he evinced extraordinary precocity in the composition of poems, both Latin and English, and was soon recog-

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nized as a distinguished orator, and an English prose writer of remarkable elegance. At Oxford he formed a close friendship with Erasmus, who was then spreading a taste for Greek literature, and became the personal friend of Grocyn, Linacre, and Colet, afterwards Dean of St. Paul's. Having completed his course in two years, he was transferred to New Inn, London, an "Inn of Chancery," to apply to the study of law; and subsequently belonged to Lincoln's Inn, "an Inn of Court," where he was taught the profounder branches of the profession. In these Inns were then presented the discipline of a well-constituted University, law was systematically taught by "Readers," and the pupils being exercised at "Mootings," were severely tested in their proficiency before they were permitted to practice at the Bar. It was not long before More was appointed Reader at Furnival's Inn, where he distinguished himself by his lectures for three years. He also appears to have delivered lectures on moral philosophy and history at the Church of St. Lawrence, old Jewry, to which the learned Londoneis much resorted, his marked ability in which was so great as to induce his friend Colet to say that there was but one wit in England, and that was young Thomas More. At this time he became so enraptured with the pleasures of piety, that he had serious thoughts of entering the order of St. Francis. He accordingly took lodgings close to the Carthusian monastery, and, as a lay brother, practiced upon himself all the austerities of that rigid order. He found eventually, however, that sleeping on the bare ground, and flagellation,—although he is said to have worn a hair-shirt next his skin for the remainder of his life,—

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were not edifying to his piety; and being convinced that God had allotted him for another state, he returned to his profession. He shortly afterwards, considering himself well adapted to domestic life, determined to marry; and to make himself a pattern of piety, humility, obedience, and conjugal chastity. Having formed this resolution under the advice and direction of his confessor, he was shortly invited by a gentleman of ancient family in Essex, named Colt, to the choice of any of his daughters, who were "young gentlewomen of very good carriage, good complexion, and very religiously inclined." He seems to have fallen in love with the second, who was the best looking; but thinking "it would be a grief, and some blemish to the eldest to have the younger sister preferred before her," he, out of a kind of compassion, settled his fancy upon the eldest, whom he soon after married. From the time of their union till her death, they lived in uninterrupted harmony and affection. He now rose rapidly at the bar, became particularly famous for his skill in international law, and was raised to the dignity of Under-Sheriff of the City of London, holding a court weekly, in which causes of importance were tried by him, with great dignity and uprightness. In 1504, he was returned to the House of Commons, where he was the first member who distinguished himself by public speaking, and as a successful leader of opposition, incurred the enmity of the Court. This he did on the occasion of Henry the Seventh asking a subsidy for his daughter Margaret, on her marriage with James the Fourth of Scotland. The crafty and avaricious monarch requiring a greater sum than he ever

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intended to bestow upon his daughter, his faithful Commons refused all his demands at the instigation, as he was told, of "a beardless boy," More being then only four-and-twenty years of age. In order to spite the son, Henry devised a causeless quarrel with his father, Sir John More, whom he sent to the Tower until he had paid a fine of a hundred pounds. The Bishop of Winchester, appropriately named Fox, now tried to inveigle the future Chancellor into making confession to the King with a view to pardon and court advancement, which More wisely declined. The young patriot, who knew that Henry was only biding his time to wreak his vengeance on him, then meditated exile to avoid danger, when the death of the tyrant preserved him for his great career and those honorable sufferings which preceded his sacrifice for the principle of liberty of conscience in matters of faith, twenty-six years later. When Henry the Eighth ascended the throne he contrived by his manners, accomplishments, and fine person to render himself immediately a most popular monarch, and he showed a royal disposition to patronize merit wherever it could be found. More, having risen to greater eminence than ever in Westminster Hall, was making not less than £400 a year, — a sum now equivalent, to £10,000, — when he undertook a case which became a "cause célèbre," and at once brought him under his new Sovereign's special notice. A ship having been seized at Northampton belonging to the Pope, the Papal Nuncio retained More to plead for its restitution before the Star Chamber, which he did with such astonishing power, and such unanswerable arguments, that, in the presence of the King, judgment was given in his

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favor. Henry praised More for his upright and commendable demeanor in this case, and, we are told, could "be induced no longer to forbear his service." He was consequently created in 1514 Master of the Requests, knighted, and sworn of the Privy Council. Having lost his first wife, he now married a widow seven years older than himself, thereby rather verifying a quaint and not over-polite saying of Sir John More, his father, that women chosen for wives are like a bag full of snakes with one eel among them, and that the chances of men are consequently ninety-nine to one to be stung by a snake. Over this lady, who was not of the sweetest disposition, More is said to have attained, by gentleness and pleasantry, greater influence than husband ever acquired by severity; even inducing her to take lessons on the cithera, the viol, and the lute. He had built a house for himself, with an extensive garden and farm surrounding it, at Chelsea, where his daughters, their husbands and children, all residing under the same roof, are said to have formed a model household, where no wrangling or angry word was ever heard, every one did his duty, and all was piety and peace. Sir Thomas, also, even when he became Lord Chancellor, was wont to attend his parish church at Chelsea, and, putting on a surplice, devote his musical talents among the choristers to the service of the temple. On the ground of his very learned conversation and pleasant jests, the King often had him to his palace to sit and confer with; but it is said that, finding he was making himself too agreeable, so that he could scarcely get leave once in a month to go home to his wife and children, he was forced to dissemble his mirthful conceits, and to become a

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duller companion. His profound legal knowledge, also, led to his being often sent on embassies to the Low Countries to negotiate treaties, and settle disputes about trade, when he was longing for the repose of his country retreat. In 1521, he was made Treasurer of the Exchequer, an office of dignity and profit, and two years later was advanced to the chair of the House of Commons. Although the Speaker was nominally the elected officer of the Parliament, the appointment was actually dictated by the Court, and the selection of More on this occasion, whose fame was so wide-spread and established, met with unexceptional approbation. In pleading for liberty of speech, as has ever been the habit of the Speaker of the House, he asked his "Noble Majesty" to "take all in good part, interpreting every man's words, how uncunningly however they may be couched, to proceed yet of good zeal towards the profit of your realm and honor of your royal person." Within a few days, however, he was brought into collision with the great power of Wolsey, and had to make a decided stand for the privileges of the House of Commons. According to Erasmus, More was now regarded by the Cardinal in the light of a rival, and an attempt was made to get rid of him by banishment to Spain as Ambassador, but he besought Henry "not to send a faithful servant to his grave." Detecting Wolsey's motives, Henry said, "it is not our meaning to do you any hurt, but to do you good we should be glad. We shall, therefore, employ you otherwise." He was accordingly appointed Chancellor of the Duchy of Lancaster, in 1525, an office held by distinguished lawyers and statesmen down to the present time; and he continued in such favor

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with the King, that royal visits to his house at Chelsea were of great frequency. His son-in-law, Roper, having on one occasion congratulated More on the distinguished honor shown him by the King, who had been walking with him for an hour in his garden holding his arm about his neck, his reply shows a thorough knowledge of Henry's intense selfishness. "Howbeit, son Roper," he said, "I may tell thee I have no cause to be proud thereof; for if my head would win him a castle in France, it should not fail to go." More's reputation was now extended all over Europe, and his "Epigrams," his "Utopia," had been reprinted in Germany and France. He was also personally known to the foreign monarchs, having to make addresses of congratulation, as he did with grace and eloquence at the meeting of the English and French monarchs on the Field of the Cloth of Gold, and at the landing of the Emperor Charles in England. His last foreign mission was as Ambassador to Cambray, to treat of a general peace between England, France, and the states ruled by Charles the Fifth, on which occasion he wrote to Erasmus, saying: "I do not like my office as an Ambassador; it doth not suit a married man thus to leave his family; it is much fitter for you ecclesiastics, who have no wives and children at home, or who find them wheresoever you go." But now arose that little cloud which was destined to change the whole aspect of affairs, both civil and ecclesiastical, in England—the argument in reference to the divorce of Henry from Queen Catherine. Between the two parties, More was for awhile able to maintain a strict neutrality. The Duke of Norfolk and the Earl of Wiltshire, the uncle and father of

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Anne Boleyn, had hopes of making a partisan of him ; while Queen Catherine is reported to have said that the King had "but one sound Counsellor in his kingdom, and that was Sir Thomas More." For a long time there had been "no love lost," between Wolsey and More ; but when, in October, 1529, Henry had finally taken leave of the Cardinal, deprived him of the Great Seal, and banished him to Esher, appointing Sir Thomas in his place, Wolsey was fain to admit that "he was the fittest man to be his successor." The office having, however, been held by a Cardinal Archbishop and Pope's Legate, it was feared that it would be lowered in dignity from the prejudices of the vulgar, from being bestowed on one of no hereditary rank, and whose judicial reputation had only been acquired as Under-Sheriff of London. To obviate this impression, More's installation was made a most imposing pageant, being headed by the Duke of Norfolk, and joined in by all the nobility, Judges, and professors of Law. In his charge to the people to receive "their Chancellor" with joyful acclamation, the Premier Duke said, "it may perhaps seem to many a strange and unusual matter, that this dignity should be bestowed upon a lay man, none of the nobility, and one that hath wife and children : because heretofore none but singular learned prelates, or men of greatest nobility have possessed this place ; but what is wanting in these respects, the admirable virtues, the matchless gifts of wit and wisdom of this man doth plentifully recompense the same." More's elevation did not require this apology, for it was not only popular in England, but also in foreign countries : and during the two and a half years that he held the Great Seal, he

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rendered solid satisfaction by an assiduous, honest, and upright exercise of his high functions, and by a purity which is in grand contrast with the mean, sordid, and unprincipled Chancellors who were his immediate successors. It would seem that at that period, it was not the custom for the Kings of England to open Parliament by prepared speeches spoken by themselves, or by commission, for we find that at the opening of the Parliament, which was immediately summoned for the impeachment of Wolsey, the King being on the throne, the new Chancellor made the opening address to the temporal and spiritual Peers, with the Commons attending, as is still the custom, at the bar of the upper House. On that occasion it is rather a stain upon his generosity that he should have spoken of Wolsey in the way he did, who was awaiting trial by those to whom his name was odious, and who were determined, in compliance with the Royal displeasure, to pronounce a severe sentence upon him. He is reported to have said, "as you see amongst a great flock of sheep, some be rotten and faulty, which the good shepherd sendeth from the sound sheep, so the great 'wether' which is lately fallen, as you all know, juggled with the King so craftily, scabbedly, and untruly, that all men must think that he imagined himself that the King had no sense to perceive his crafty doings, or presumed that he would not see, or understand his fraudulent juggling and attempts." Some very valuable statutes were suggested and passed by Lord Chancellor More, who, however, not being a member of the House, could not take part in the debates, although the proceedings of the Lords were entirely governed by him. On the judgment-seat he afforded

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a striking contrast to the haughty Cardinal, hearing causes daily from eight to eleven, and sitting in open hall after dinner, when "the poorer and meaner the suppliant was, the more affably he would speak to him, the more heartily he would hearken to his cause, and, with speedy trial, despatch him." Although it is doubtful whether More did not look with a certain kind of mild approval upon the principle of promoting uniformity of faith by persecution and cruelty, yet he never himself strained or vigorously enforced the laws against the Lollards. Erasmus says: "It is a sufficient proof of his clemency that, while he was Chancellor, no man was put to death for these pestilent dogmas, while so many at the same period suffered for them in France, Germany, and the Netherlands." When it became evident that the King had both the power and the will to break with the Papacy, More found himself placed in a most difficult dilemma; and at length, clearly seeing that it was impossible that the divorce could be granted by the Court of Rome, he made suit to the King to be allowed to resign the Great Seal, alleging declining health as a plea. After much hesitation, Henry assured him that for his good service "he should not fail to find him a good and gracious Lord," a promise which the Royal polygamist carried out by robbing him of all his estates and property, and causing him to be beheaded. To this good and simple-minded man, it was a pleasure to step down from his exalted station, and to pass his retirement among the advancing literature of the age, and in the promotion of the good of his fellow-creatures. On the 25th of January, 1533, Henry privately married Anne Boleyn, but the matter was kept secret till

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Easter, when, being declared Queen, orders were given for her coronation. On that occasion, More made a mortal enemy of Anne, for he declined an invitation to the ceremony, although waited on by three Bishops as the King's messengers, who offered him £20 to buy a suitable dress for the occasion. The mother of Queen Elizabeth must necessarily have had strong points in her character, and there is no doubt that from that moment the unobtrusive and upright-minded More incurred the displeasure of Queen Anne Boleyn, even to death. A short time after, having asked his daughter Roper, how the world went, and how Queen Anne did, she replied, "In faith, father, never better; there is nothing else in the Court but dancing and sporting." "Never better!" said he. "Alas, Meg, it pitieth me to remember unto what misery, poor soul, she will shortly come. These dances of hers will prove such dances that she will spurn our heads off like footballs; but it will not be long ere her head will dance the like dance." This remarkable prophecy of his own and Anne's death, was not long of fulfillment. Attempts to wreak vengeance on him soon commenced. He was charged before the Privy Council with being guilty of bribery when Lord Chancellor, but on that occasion even false-witness seems to have failed for the purposes of conviction. He was then accused as an accomplice of Elizabeth Barton, a religious fanatic, known as the "Holy Maid of Kent," who was charged with saying that Catherine was still the King's lawful wife. Afraid of his legal knowledge and eloquence, the charge was heard privately before Cranmer, Audley, the Duke of Norfolk, and Cromwell, who tried all persuasion at first to induce him to ask any

favor of the King on submission to the doctrine of the Royal supremacy. This being of no use, they threatened him, and among his "villainies" to his Prince pointed out that having provoked the King to set forth his book in favor of the Pope, whereby the title of "Fidei Defensor" was obtained, he had put into the Pope's hands a sword to wield against his Sovereign. Informing their Lordships, "these terrors be for children, and not for me," he requested them to remind Henry that he had only put in order the materials, but that the book was the Sovereign's own suggestion. Owing to his firmness, however, the King's thirst for his blood was not immediately gratified. On the 13th of April, 1534, having refused every inducement to take the oath of supremacy, being summoned before the Commissioners at Lambeth, he left his home, and was that night committed a close prisoner to the Tower of London. Under all the pressure of his severe imprisonment, his cheerfulness and wit never left him. He was greatly consoled in his imprisonment by his daughter, Margaret Roper; but his wife who came to see him, and was a plain, rude woman, upbraided him with playing the fool to lie in a close, filthy prison, when he could get his liberty by doing as the Bishops and all the learned in the land had done. He replied with cheerful countenance, "I pray thee, good Mrs. Alice, tell me one thing." "What is it?" she said. "Is not this house as near heaven as my own." His "gracious" Sovereign now thought his retirement was too much consoled by the use of a small library with which he had hitherto soothed his solitude, and to deprive him of it Solicitor-General Rich was sent, who inveigling him in conversation under pretense of

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ancient friendship, had the villainy to get into the witness-box and give false testimony regarding it on More's trial. A packed jury and partial Judges, with this miscreant's assistance, — to whom after conviction, More said, "In good faith, Mr. Rich, I am more sorry for your perjury than for mine own peril," — soon settled the matter; and with the edge of the axe now carried towards him, More was taken back to the Tower. On arrival at the wharf he was met by his estimable daughter, whose farewell embraces made even his guards to weep. He was executed on Tower Hill, on the 6th of July, 1535, all parts of the frightful sentence being remitted by special favor of Henry save the beheading, which caused him to say he "hoped that none of his friends might experience the like mercy from the King." To the Lieutenant of the Tower, having some difficulty in mounting the scaffold, he said, "Master Lieutenant, I pray you see me safe up, and for my coming down, let me shift for myself." Having knelt and said the "Miserere," and told the executioner to pluck up his spirit, at one blow the sufferings and pleasantries of this faithful, upright man and good Christian, were ended. His great learning, his child-like simplicity of faith, his unsullied character as a judge, and great attainments as a lawyer, added to his constancy, even unto death, against the idea of binding consciences by kingly power, and the establishment by penal legislation of a government of State and Church, combine to render his memory alike that of one of the noblest martyrs and the greatest of England's Chancellors.

LORD ABINGER



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LORD ABINGER



JAMES SCARLETT—by which name he will always be better known than by the title of Lord Abinger, only held by him for the last few years of his life—was the descendant of an illustrious English family on both sides. On that of his mother, it was particularly interesting as connected with the English Commonwealth. The family of Scarlett was settled in the little town of Eastbourne, Sussex, in England, early in the seventeenth century. After Oliver Cromwell's conquest of the island of Jamaica, we find a Thomas Scarlett emigrating to that Island in 1655, whose son became member of the Assembly, and the possessor of large estates and property. Robert, the father of Lord Abinger, came from this stock, and married Elizabeth Anglin, whose direct ancestor was President of the Lord Protector Cromwell's Council during the Commonwealth. Of their union two distinguished lawyers were born—Sir William Anglin Scarlett, who became Chief Justice of Jamaica, and James Scarlett, the eloquent English lawyer who is the subject of the present sketch. First seeing the light in that important

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English colony in the year 1769, James was sent to the old country for his education; and having gone through the usual course of school studies, eventually entered himself as a student of Trinity College, Cambridge. Before he was of age he took his Bachelor of Arts degree at that University, and three years subsequently, that of Master of Arts. Having entered himself and studied law in the Temple, he was eventually called to the Bar on the 28th July, 1791, and within a year from that date married the daughter of an Irish gentleman. There seems to have been no great necessity for Scarlett to exert himself particularly in his profession, for his circumstances were easy, and he was by no means dependent on the Bar for a living. For many years he appears to have merely attained a character for indolence, and he may be cited as an illustration of the few cases in which men have risen to great eminence at the English Bar without the stimulant given to application and talent, in the dry details of the legal profession, which is afforded by poverty of circumstances. He joined the Northern Circuit, and also practiced in the court at Lancaster; but for twenty-five years he remained a junior counsel, although the greater part of that time he was making a good business. His personal appearance was greatly in his favor,—particularly distinguished and prepossessing,—so that he enjoyed the reputation of being *par excellence* in the Courts which he attended, “the handsome barrister.” The ladies who visited them were invariably attracted by these his special merits, perhaps even more than by his great forensic powers; and a biographer somewhat maliciously says that he

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was the object of their envy for his fine complexion and regular features. That he should be a favorite with the fair sex is, therefore, not to be wondered at, while there is little doubt that he reciprocated their admiration, and would at all times prove their most powerful advocate when they had causes in court. His great intellectual power and eloquence at length worked out for him a foremost position in the courts at Westminster and on Circuit; and in the year 1816, he was made a King's Counsel. In the arguments in Banco he was particularly successful. He hit the most subtle points of a case with singular power; was clear in his definitions, and always fortunate in extricating the mind of the Court from entanglement, and putting the questions in dispute into lucid form. So wonderfully did he influence the minds of the Judges, where other men thought by the Bar to be his equals and superiors entirely failed, that it was said of him that "Scarlett had invented a machine to make the Judges nod and assent." Nor was his influence less effectual with juries, who seemed to be powerless, and to have no opinion of their own, under his entrancing powers. His diction was without effort; his periods brilliant; his manner invariably gentlemanly and persuasive; and he is said never to have had recourse to a violent expression. At times, however, there is said to have been an indistinctness in his enunciation, and he occasionally, though not often, stammered a little. This latter defect, however, has, singularly enough, existed in some of the greatest orators of ancient and modern times. Mr. Scarlett was never in the habit of running about from court to

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court for practice, and it has been specially recorded of him, that whoever his client might be, rich or poor, or whatever the fee marked on his brief, the case always commanded from him the same eloquence, energy, and careful thought. He was reckoned as the most successful lawyer of his time as regarded the number of the cases in which he prevailed; and in this respect was very unlike Brougham, who, with transcendent talents, was not at all a fortunate advocate for his clients. His knowledge of law was both extensive and accurate; more so, in fact, than any of his contemporaries. He showed, also, great tact, not only in assuming his own positions,—which were laid down in a way to render it almost impossible for contending counsel to controvert them,—but he could detect with special acumen the false steps and legal errors of the adverse party. By his tact in this respect he could turn the tables on his adversary, and whenever he discovered such an error in the arguments opposed to him, he was accustomed to dwell upon it at such length, and with such earnestness, that the Court itself would frequently by his magnifying its importance, be induced to give it a consideration of which it was, perhaps, by no means worthy. In addition to this great ability for enlarging the holes in his adversary's legal armor, he exercised consummate judgment in the selection of points of even minor importance, which he would present on behalf of his client. He would not suffer a jury to give only a cursory glance at any such particulars; while no man, perhaps, that ever practiced at the English Bar displayed the same ingenuity as Scarlett in concentrating into a focus the

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material facts in favor of his own client, and marshaling at the same time before judge and jury the errors and adverse points of the opposite side. By such perspicacity he would strip much of his opponent's case of professional technicalities, and intelligently appeal to the plainest and most unsophisticated mind. His talents for simplifying abstruse points and popularizing his arguments, have caused to be said of him that he could make any subject perfectly intelligible to a jury of bricklayer's hodmen. In "Nisi Prius" cases, he was in the habit of picking out and specially addressing himself to the jurymen whom he thought the most intelligent, and likely to influence the others when considering their verdict. The jurymen so distinguished was naturally flattered, and in a better condition to receive a satisfactory impression from his speech. His singular personal gifts and powers have been happily described in the following words: "In Mr. Scarlett's manner, when addressing a jury, there was something remarkably winning. He looked the very incarnation of contentedness and good-nature. A perpetual cheerfulness, amounting to a partial smile, irradiated his sleek countenance. His laughing and seductive eyes did infinitely more, in many instances, for his client than all the legal knowledge he brought to bear on the question before the Court. The very moment he rose to address the jury, he looked at them quite as much in the 'How-do-you-do' style as if he had been on terms of particular intimacy with each and all of them all his life. And from the commencement to the close of his address, he spoke with as much familiarity to them, as if he and they had formed some

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'free-and-easy' club." Having made up his mind to seek admission into the House of Commons, Scarlett twice contested the Borough of Lewes between the years 1812 and 1816, but on both occasions unsuccessfully. In 1818, Earl Fitzwilliam at length gave him a seat for Peterborough. His free-and-easy style, however, did not suit the Legislative Chamber; and we find that his Parliamentary efforts did not realize the expectations of his friends. In the year 1822, he was returned for the University of Cambridge, and subsequently represented Maldon and Cockermouth; while after the Reform Bill, he was member for the City of Norwich. He rendered some considerable assistance to Sir Samuel Romilly in his great measures for the reform of the Criminal Law; and at least on one occasion is said to have delivered a first-rate speech. This was on the introduction of a bill by Lord Castlereagh to pay £10,000 a year to the Duke of York for expenses incurred as the custodian of the person of his father, George the Third. Mr.—afterwards Lord—Denman criticised the measure as an outrageous attempt to increase the burdens of the people for the purpose "of inducing a son to perform the most sacred of all duties to an aged parent," and Scarlett made a famous speech, "one of the ablest," Brougham said, "that any professional man ever made," and he sat down amid loud and general cheers. In 1827, at the amalgamation of the political parties by Canning, Scarlett was made Attorney-General—in succession to Sir Charles Wetherell, who had resigned—and was knighted. He held the office, however, for only one year, but again succeeded Sir Charles Wetherell in

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1829, when he "ratted" and took office under a Tory administration. On that occasion, Denman fully supported the course he took, in a letter in which he says, "If, as I have heard it reported, so very important a step has been taken, from whatever laudable motives, against the general views of the Whig party, I now deliberately repeat the opinion I declared to you two hours ago, that you would be fully justified in accepting office under Canning; and if your doing so could give stability to his government, I do not think you would be justified in refusing it." His very first act under the influence of the Tory party was to institute criminal proceedings against "*The Morning Post*" and "*Atlas*" newspapers for libels on the government, which was rather a melancholy commentary on all the fine speeches he had been in the habit of making, in and out of Parliament, in favor of the liberty of the Press. He, however, amended the law relating to libels by a modification of the six acts. The legal profession was also indebted to him for several valuable measures. He got rid of movable terms, and made them fixed, and abolished the separated Welsh Judicature, and gave the Judges of the West undisputed ascendancy in the Courts. In reference to the trials for libel in which Scarlett was engaged, the following is a remarkably good anecdote, showing his power of inflicting torture as counsel. It was on the trial of Cobbett for the libel of an attorney, and the editor of "*The Register*" had for many months been treating Scarlett in almost every issue to that unrivalled abuse of which he was so complete a master. That it might be done the more effectually, and the

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reader be prepared for what was to follow, Cobbett put his diatribes in the form of letters, each one of which commenced "Base lawyer Scarlett." Mr. Scarlett sensibly smarting under the castigation thus administered, found the opportunity of retaliation when Cobbett was brought into a court of law. Against the libeller of "*The Register*" were arrayed Brougham, Denman, and Scarlett, a formidable trio to be pitted against an unprofessional man. In Brougham and Denman's denunciations of him as the alleged author of the libel—which were probably quite as severe—Cobbett did not imagine that any personal vindictiveness was paramount, but in Mr. Scarlett's address to the jury, he could see nothing but a personal affair, and the gratification of private revenge. Scarlett concluded his speech in the following words: "Gentlemen of the Jury, it is impossible for me to estimate the amount of injury which this malignant and systematic libeller"—pointing to Cobbett—"has inflicted on my client; and no damages, however great, can afford him compensation for the injury thus done him. Gentlemen, my client is at present an attorney, but had the intention of preparing himself for the Bar; and being a young man of great talents, there was no distinction in the profession to which he might not have reasonably expected to attain. Nay, gentlemen, I will say that even the woolsack itself was an elevation to which he would have been justified in aspiring. But, gentlemen, the virulent calumnies with which this notorious trader in libels has heaped upon him, have blasted all his fair prospects, and well-nigh broken his heart. It is, therefore, for you, gentlemen, to mark your abhorrence of

the atrocious conduct of this person, by giving a corresponding amount of damages." Cobbett rose immediately on Mr. Scarlett's resuming his seat, and putting both hands beneath his coat, and eyeing the jury with a bland and humorous expression of countenance, said: "Gentlemen, you are men of the world, and must laugh in your own minds at all the flummery you have just heard. You know, gentlemen, such stuff about injury to character, and blasting one's prospects, and destroying one's peace, is to be heard in this court at every hour of the day. The lawyer"—pronouncing the word in a way to give it a very peculiar and emphatic meaning—"the lawyer who has been vilifying me for the last hour and a half, would do the same, gentlemen, in either of your cases, if hired for the purpose. You know, gentlemen, that, like the girls who walk the streets, these persons"—pointing to Brougham, Denman, and Scarlett—"will prostitute themselves to any dirty work for which they may be engaged. They are always, gentlemen, at the service of the highest bidder. The great crime, it seems, gentlemen, which I have committed, is that of having crushed a *lawyer* in the egg." Here Mr. Cobbett turned about his ponderous body, pointed to Mr. Scarlett, and looked at him at the same time with a look of unutterable scorn. The allusion was at once felt, both by the Court and the jury, in all its force, as applicable to the castigations Cobbett had so often given Scarlett, and it told with amazing effect. Brougham and Denman looked at each other as if struck with the singular felicity of the hit. Cobbett proceeded for a couple of hours raking up and pouring out

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afresh on the head of Mr. Scarlett all the abuse he had heaped on him in his "*Register*," so that the learned gentleman, to use a legal phrase, "took nothing by his motion." On December 24th, 1834, Sir James Scarlett was raised by Sir Robert Peel to the Bench, succeeding Lord Lyndhurst as Chief Baron of the Court of Exchequer, and in the following month he was elevated to the House of Peers by the title of Lord Abinger, of Abinger, in Surrey, an estate which he had purchased. Singular to relate, with his elevation to the Bench, Lord Abinger seems quite to have lost his peculiar powers, and in the ermine and the full-bottomed wig he was no longer omnipotent with juries. A great admirer of him, when, as Mr. Scarlett, he led the Bar, says: 'It was his face that did it all; there was no resisting its seductive aspect. To the cause of many an opposing party Mr. Scarlett's smile proved fatal. I have often thought that his making a speech in the usual way was a mere waste of time, and an unnecessary exertion of his lungs. It would, I am convinced, have been in many cases quite enough, if he had simply told the jury that everything that was said on the other side was pure nonsense—that it had no relevancy to the case before the Court—that the law and the justice of the case were in favor of his client, and that he was sure they would not hesitate a moment in returning a verdict to that effect. The resistless logic of his face would have done all the rest; his fascinating smile would have filched the desired verdict from the jury.' As regards the judges themselves, it is an undoubted fact that their views and decisions were imperceptibly influenced by the

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extraordinary fascination of his mode of addressing them. With his gown folded in hand at the sides and his arms on his breast, he smiled in their faces from the beginning to the end of his address ; talking all the while to them as if he were engaged in a mere matter of friendly conversation. As it was impossible for them under these circumstances to be on other than the best of terms with the advocate, his clients often reaped the benefit of the conciliatory and seductive character of his speeches. The triumphs which woman achieves by her smiles are proverbial. History and works of fiction abound with records of the trophies which the softer sex have won, by what a lawyer would call their skill in the art of smiling. Woman's smile has often achieved triumphs where all the intellectual and physical power in the world would have utterly failed ; but for a man to gain a series of distinguished moral victories by his smiles is another matter. Its occurrence in the case of a lawyer is still more extraordinary. Milton speaks of an orator of antiquity, who by the charms of his eloquence could wield the fierce democracy at his will. In the case of lawyers, there are also instances of great effects being produced by powerful oratory. Generally speaking, however, the weapon with which they fight, and by means of which they gain their conquests, is the tongue, associated with true eloquence ; though the mere gift of the gab, as the common expression has it, often proves the most effective armory in Courts of Law conflicts. That is a gift which sometimes proves more than a match for the highest order of intellect, and the loftiest eloquence. Hence the most distinguished

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men, either as orators or philosophers, belonging to the profession, are not always the most successful pleaders, and are often defeated by men who are as innocent of brains as their own wigs, but who chance to have what is called an abundance of tongue. It is also stated of Sir James Scarlett, that in his most bitter denunciations of an opposing party, he still preserved the same smiling countenance, and that his face and manner were most playful at the very time that he was pounding some opposing party to powder, or some unhappy wight was writhing under the excruciating tortures to which he was subjecting him. As Shakespeare informs us, however, that a man "can smile and smile, and be a villain," it is clear that the human countenance is not always to be depended upon. That in spite of his imperturbable expression, Scarlett could wound and sting to the point of retaliation, rousing the just indignation of his brethren of the bar, is proved by what occurred between himself and Denman at the trial of the Mayor of Bristol, in which Denman appeared for the Crown, and he for the defense. In one of Lord Brougham's letters he thus alludes to it: "Denman's attack on Scarlett you may have heard spoken of as *ferocious*; but all admit it was deserved, and was purely in retaliation of a most wanton attack on us all. I hear there was never anything more savage, but nobody blames it." Whether as a Judge he entirely altered the expression of his face, or however otherwise it is to be accounted for, it is certain that Samson was not more surely deprived of his strength when his locks were shorn by Delilah, than did Scarlett lose his peculiar fascinating influ-

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ence, when he exchanged the position of a Commoner for the Peerage—the Bar for the Bench. He was no longer the invincible Scarlett, and juries refused to be led by him. It has been attempted to be accounted for by the fact that he betrayed too much of the advocate in all his summings up on the Bench. Instead of leaving the points at issue to the jury, he almost invariably, in his mode of charging them, intimated to them in terms which could not be misunderstood, what his opinion was of the decision to which they ought to come. His decisions are also said to have been marked by an absence of that reference to parallel cases which the Bar expects at the hands of the Bench. Perhaps the highest compliment ever paid to Scarlett, was that of the venerable Sir John Coleridge, late Judge of the Court of Queen's Bench, and father of the present Chief Justice of the Court of Exchequer, who, speaking of his literature, his science, his variety of legal learning, his appreciation of facts, and soundness of legal principles, said in the year 1859, that his place at the Bar, twenty-five years after his leaving it, was yet unfilled. As a Judge he would have been expected to have rivaled the singular dignity of deportment on the Bench of Lord Ellenborough, or the particularly elegant judicial bearing of Lord Denman; but all who knew him concurred in the opinion that, with all his personal advantages, he never appeared to advantage on the judgment-seat. At the Bar he had, however, only one rival among his cotemporaries, and that was the lamented Sir William Follett, who always appeared to move with a similar grace and ease under the heaviest burthens. He presided in the Court of Ex-

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chequer for ten years. Having attended the Norfolk Circuit as one of the judges in 1844, he had reached Bury St. Edmunds, and discharged the business of a court day apparently in full health, when he was struck with a fit of paralysis, which left him speechless. He never rallied during five days, and died at the advanced age of seventy-five. He lies buried at Abinger, in Surry, the place from whence he took his title.



LORD LYNDHURST





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LORD LYNDBURST



JOHN SINGLETON COPLEY,—known as Lord Lyndhurst, when he became Lord High Chancellor of England,—will always be remembered for his qualities as a courtier and his talents as a politician, rather than for those distinctive attributes which adorn the judgment-seat. He was four times Chancellor; and, on two occasions, by designating to the Sovereign whom he should send for in a special emergency, may be said to have had the formation of Cabinets. America has a right to claim him for her own. His grandfather, an Englishman by birth, married an Irish woman named Mary Singleton, and came with him to Boston, where both their son and grandson were born. The son, the father of, and bearing the same names as Lyndhurst, became an eminent artist and Royal Academician of London, and is most notably remembered by his picture of "the Death of Chatham." When he sent copies of the print of this celebrated historical picture to Washington and Adams, the former wrote "it is rendered more estimable in my eye when I remember that America gave birth to the celebrated artist who produced it,"

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and Adams replied, "I shall preserve my copy, both as a token of your friendship and as an indubitable proof of American genius." It was barely two years before the artist set sail for Europe, for the purpose of studying the wonders of the Vatican, and the various schools of ancient art, that his son — whom he must have left behind him for some years with his wife — was born at Boston on the 21st of May, 1772. It is believed that the young Copley continued to reside in Boston sufficiently long after the treaty of peace recognizing American independence, to fix upon him indelibly the stamp of American citizenship. At all events he exhibited an early devotion to republican principles. took what he called the "go-ahead side," at the risk of serious animadversion, and was looked upon in England as a Jacobin, with opinions of an ultra-political complexion, before he was tempted by office to adopt those high-Tory principles the honesty of which may fairly be questioned throughout his life. When Chancellor, having on one occasion denounced the Irish as "aliens," Daniel O'Connell retorted that he was himself an alien, and liable to be reclaimed as a refugee Yankee. He only once again visited America, just before commencing his forensic career, having obtained the appointment of Traveling Bachelor for the University of Cambridge; but the account he transmitted of his travels to the University authorities is unfortunately lost. While here, however, he paid a visit to the illustrious Washington, and traveled with Louis Philippe, afterwards King of France, and then a refugee in the United States. Of his youthful history very little is recorded, but his memory is preserved as a lover and a poet, at the age

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of fourteen, by some verses written when he was at school at Clapham. At eighteen he was possessed of sufficient classical knowledge to be admitted a pensioner at Trinity College, Cambridge, where his solid acquirements, the result of steady application, caused him to be elected a Fellow, and in four years he came out second wrangler. He then returned to London, and, entering himself as a member of the Honorable Society of Lincoln's Inn, took chambers in the Temple, and became the pupil of Mr. Tidd, the famous special pleader. He got up a debating society at his chambers, where he could indulge in the eloquence of which he was denied exercise as a pleader under the bar, and soon proved himself a capital and animated speaker. He was thirty-two years old when, on the 7th of June, 1804, he was called to the Bar; and, his progress for nine years having been remarkably slow, he resolved to take the "coif," and was accordingly henceforth known as Mr. Sergeant Copley. One of those miracles which consist in the conjunction of an opportunity to make a great speech in a popular cause, and the ability to improve the advantage, then befell him. He had not only shown his sympathy for the numerous demagogues, who flourished in that time of general discontent among the laboring classes, but was in no sense particularly patriotic. On hearing of Napoleon's escape from Elba, while walking in the street, he enthusiastically threw up his hat and shouted, "Europe is free," and although he did not mix with the radicals of the day, who were men of low education and vulgar manners, Sergeant Copley was looked upon by them as a likely defender in cases of sedition and treason, as one indeed who

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had faith in democratic revolution, and even contemplated without dismay the establishment of an Anglican Republic. Just at this time a Doctor Watson, a physician without patients, who collected large assemblages of people in Spa fields, near London, having caused a dangerous riot, was put on trial for high treason; and Copley, with Sir Charles Wetherell, was called upon to defend him against the Crown officers. His speech, which was calm and persuasive, was a close chain of reasoning against the assumption that Watson "had levied war against the King," and his concluding words to the Jury were, "although you can not approve of all the prisoner has said and done, you will, without hesitation, acquit him of this weighty and unfounded charge." Although Lord Ellenborough strongly charged for a conviction, Dr. Watson was acquitted. This trial made Copley. Lord Castlereagh was present in Court, watching the trial with great anxiety, and, meeting the witty Jekyll in the street, said, "If Copley had been for the Crown, the prosecution would have succeeded." Jekyll replied, "Bait your rat-trap with Cheshire cheese, and he will soon be caught." This was an allusion to the office of Chief Justice of Chester, a government appointment freely used to seduce to the Ministerial ranks the most promising politicians, who were members of the Bar. Castlereagh is reported to have responded, "I think I can discover in him something of the rat." And, true enough, Copley proved himself thoroughly venal. On reception of overtures by a government medium, he became a thick-and-thin supporter of the administration, on the understanding that everything in the law which the government had to

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bestow, should be within his reach. He was returned to Parliament as member for Yarmouth, in the Isle of Wight, and in the following year was made Chief Justice of Chester. His name was now among the Ministerial majority in every division, and he forced himself to bear the odium, sarcasm, and raileries which awaited him, with astonishing coolness, only escaping by his previous absence from Parliament, the disgrace of having to walk across the House, and front his former associates. He went "the whole hog" in all the measures of the ultra-Tory Ministry, and we shortly find the eulogist of the French Revolution defending the arbitrary and unconstitutional Alien Act, whereby, without cause assigned, all but natural-born subjects, however long or peacefully they might have lived under allegiance to the English Crown, were turned out of the kingdom. In 1819, he was made Solicitor-General, and became a regular member of Lord Liverpool's government, and while his agreeable manners made him popular with all branches of the profession, his spirited bearing always secured him a favorable hearing in the House of Commons. In the same year he married the widow of an officer who was killed at Waterloo, and who was niece of Sir Samuel Shepherd, the late Attorney-General. Having enlarged the house in George Street, Hanover Square, in which his father had lived, the handsome Lady Copley now reflected fresh honors on her husband as the leader of fashion, and by entertainments, admission to which was sought by the most distinguished society. During the five years that Sir John Copley held the office of Solicitor-General, he had to take part in some important State prosecutions. Among them was

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the trial of the Cato Street conspirators, against whom he replied for the Crown, the result being that five of them suffered all the barbarities attached to the punishment of the crime of high treason. Then came the Manchester massacre, or the "battle of Peterloo," as it was called, the result of the popular discontent which broke out in licentious publications from the press, and ended in tumultuary assemblages of the people. These produced the celebrated Six Acts, which were carried through the House of Commons by Copley, by which the Constitution was virtually suspended, oral discussion was interfered with both in debating societies and philosophical meetings, and no man could venture to write upon political subjects except at the peril of being sent beyond the seas as a felon. In supporting them, he affirmed that it would be impossible to conciliate the reformers, and said that the very attempt would give a triumph to the disaffected, and encourage them to rally round the banners of sedition. On one occasion during the discussion of these Acts, Lord Tavistock having alluded to his former opinions, Copley said, "Why am I taunted with inconsistency?" and added, "I confess that during my short parliamentary experience I have seen nothing in the views of the gentlemen opposite, to induce me to join them." It is said that Macintosh, knowing how thoroughly mercenary a Parliamentary soldier Copley was, whispered to Lord John Russell, "instead of quarreling with our views, he should have said that he did not like our prospects." Now came the death of George the Third, and the great trial of Queen Caroline, in which Gifford the Attorney-General, with Copley, were matched against Brougham and

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Denman. Copley infinitely surpassed his colleague upon that occasion, and succeeded at the conclusion of a brilliant speech in turning Denman's unfortunate quotation, "go and sin no more," against the Queen and her advocate. No change took place in the Law officers till October, 1824, when Gifford, being made Chief Justice of the Common Pleas, Copley succeeded him as Attorney-General; but in that capacity he was a mild public prosecutor, the spirit of the Six Acts having died out with the decease of Lord Castlereagh. He resisted all reforms in the Law proposed by opposition members, and denounced as unnecessary and dangerous the "Prisoner's Counsel Bill," maintaining that in trials for felony, the Judge was counsel for the accused. His great stock of general information, superior oratorical powers, and fascinating manners, made him at this time such a general favorite with the high Tories, that he entertained the idea of quitting the legal profession, and striving against Perceval to be the successor of Lord Liverpool in the Premiership. He affected all the ways of a man of fashion, was desirous when he took a trip to Paris of being thought to have indulged in all the gayeties of that dissipated capital, and greatly shocked Lord Eldon by driving about town in a smart cabriolet with a "tiger" behind him. Having been returned as member for his own University, he now declared himself a strong anti-Catholic which he was specially induced to do by the death of Gifford, which opened the way for him to the woolsack as an anti-Catholic Chancellor. Against Lord Eldon's advice in a private letter to Sir Robert Peel, Copley was now made Master of the Rolls, an office which he only held from

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Michaelmas to April, and of his judicial performances in which not a vestige remains. It is only recorded of him that while holding it "he sat as seldom as possible, rose as early as possible, and did as little as possible." He then devoted himself almost entirely to politics, and in March of the following year,—1827,—on Mr. Plucket's motion for removing the disabilities of His Majesty's Roman Catholic subjects, made a celebrated speech against the Catholics, despite the sneers which were excited by his complete conversion from Jacobinism to bigotry. Following Lord Eliot,—afterwards as Earl of St. Germans, Lord Lieutenant of Ireland,—Copley argued that the Protestants of England were put upon their defense, and that the misdeeds of the Catholics down to the Irish massacre of 1641, made it natural to guard against the repetition of such outrages; while the attempt to reintroduce popery in the reign of James the Second justified the penal code of William the Third; and he had the effrontery to conclude a speech which he nearly borrowed *verbatim* from Dr. Phillpotts, Prebendary of Durham,—afterwards made Bishop of Exeter, for "ratting" on the same question,—by boldly claiming credit for sincerity! Having fully established his capability on this great religious political controversy, and Lord Eldon having resigned the Great Seal, under the idea that Canning, the new Minister, could not stand, Copley on the 12th of April was created Lord Chancellor, and raised to the Peerage by the title of Baron Lyndhurst. The King, doubtless not forgetting all Copley's efforts to degrade the persecuted Caroline, expressed his high satisfaction at being able to place the 'clavis regni' in "the hands of one in

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whom he reposed entire confidence." At the death of Canning, a few months subsequently, the premiership was conferred upon Lord Goderich, whose wisest act was, just previously to the meeting of Parliament, to announce his incapacity to Lyndhurst, who accompanied him to Windsor to present his resignation to the King. On the Chancellor's solicited advice, George the Fourth sent for the Duke of Wellington, only saying, "but remember, whosoever is my Minister, you, my lord, must remain my Chancellor." During the Duke's administration, Lyndhurst concurred in carrying two measures of liberal tendency which were forced upon the government, one being the repeal of the Corporation and Test Acts, and the other Catholic emancipation, which he had so strenuously opposed in the lower House. Lyndhurst, on the latter occasion, was violently assailed by Lord Eldon; but his wonderful self-possession and dignity got him through all difficulties. He assured the noble and learned Lord that his fears were vain, for Catholics had sat in both Houses long after the Reformation, without any danger to the Reformed faith. "This," he said, "is proved by a speech of Colonel Birch, who in the course of his argument in the House of Commons, in the reign of Charles the Second, said, 'will you at one step turn out so many members?' alluding to the Roman Catholics. I state this as one of the many facts that never were disputed, to show that the Roman Catholics sat in Parliament under our Protestant government." *Lord Eldon.*—"Did the noble and learned Lord know that last year?" *Chancellor.*—"I confess that I did not: but, my Lords, I have since been prosecuting my studies; I have advanced in

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knowledge ; and, in my humble opinion, even the noble and learned Lord might improve himself in the same way." This sally set the House in a roar, and it was generally agreed that Lyndhurst's speech in favor of emancipation, was quite as able as that which he had delivered against it in the previous year. The bill passed by a large majority. Some of the duties of Chancellor he performed with great vigor and *éclat*. Regardless of parties, he was liberal in the distribution of the honors of the bar, and he claimed, and always acted on his right, as holder of the Great Seal, to appoint the puisne Judges, taking the pleasure of the Sovereign, but without consultation with his colleagues or the Premier. His private practice had not been lucrative, and although his official pay had been considerable, he had spent money as fast as he earned it. Entertaining in splendid style, and heightening the performances of his French cook and Italian confectioner by his wit and convivial powers, it is said that executions were so frequent in his house, that his band of attendants at table was generally swelled by sheriff's officers put into livery. George the Fourth, having died on the 26th of June, 1830, the Ministry of the Duke of Wellington struggled on until November of the same year. Lyndhurst would have been quite willing to intrigue with Lord Grey for the retention of the Great Seal, and it is said he had a powerful ally in Lady Lyndhurst, whose beauty and lively manners had fascinated the venerable Whig Earl ; but the claims, or rather the threats, of Brougham proved too powerful. Such was Lyndhurst's influence that he was shortly after appointed Chief Baron of the Exchequer, although it was

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quite unprecedented for a Lord Chancellor or Lord Keeper, after resigning the Great Seal, to become a Common-Law Judge. In that capacity he gave clear, convincing, and dignified judgments; and was a great favorite with the Bar by reason of his courtesy. As a Chancellor, his character is admirably summarized by Lord Campbell in the following words: "He took no bribes, and he never was influenced by any improper motives in deciding for one party rather than the other—further than taking the course which would give him the least trouble, and which least exposed him to unpleasant criticism. His excellent good sense and admirable tact kept him out of scrapes. Avoiding danger, he was careless about glory; and not by any means over-anxious or scrupulous about the business of the Court being disposed of satisfactorily. He sat in the Court of Chancery as little as he possibly could, and his great object was to shirk the decision of perplexed and difficult questions. Upon appeals from the Master of the Rolls, and the Vice-Chancellors, he almost always 'affirmed'; by which he had the treble advantage of lessening the number of appeals, of having the good word of the Judge appealed from, and of shunning the necessity for giving reasoned judgments." Although owing his new appointment to the Whigs, he did his utmost to oppose their government, and was one of the most formidable opponents of Lord Grey's Reform Bill. On its second reading he spoke after Brougham, of whom he said: "The noble Lord on the woolsack, with his buoyancy and nimbleness, may for a time float upon the tide and play his gambols on the surface, but the least check will submerge

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him, and he will sink to rise no more." Speaking of his origin on this occasion, he said, "I can not boast an illustrious descent. I have sprung from the people. I owe the situation I have the honor to hold in this House, to the generous kindness of my late Sovereign. But if I thought that your Lordships were capable of being influenced by the threats which have been audaciously held out to you, and that you should be so induced to swerve from the discharge of your duty, when everything valuable in our institutions is at stake, I should be ashamed of this dignity, and take refuge from it in the comparative obscurity of private life, rather than mix with men so unmindful of the obligations imposed upon them by their high station and illustrious birth." These words were uttered in October, 1831. When the Peers had rejected the bill, and William the Fourth had declined Lord Grey's suggestion to create new Peers for the express purpose of passing it, the King sent for the Chief Baron to advise him. Lyndhurst told His Majesty that he was in favor of a well-considered measure of reform, and could he have got the party to support him, he no doubt would, in spite of his former language, have attempted to carry a measure on the subject. As it was, Lord Grey returned to power, and Lyndhurst ceased his opposition, retiring from the House with many other peers in order to let the Bill pass. Again in November, 1834, the Great Seal passed into the hands of Lyndhurst during the one hundred days, when Lord Melbourne being "sent for," and Brougham being distrusted by his party, the Great Seal was put into commission. Not long after a violent passage of arms oc-

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curred in the House of Lords between Brougham and Lyndhurst, in which the latter evinced remarkable command of temper. When, in after years, Lord Brougham had finally given up all hope of again being seated on the woolsack, the two ex-Chancellors became ostensibly the closest of friends, but Brougham never seemed to be aware that Lyndhurst was perpetually making a cat's-paw of him, and leading him on to attacks on the Whigs for the gratification of the Tory party. Nothing delighted Lyndhurst more than, having put the recreant ex-Whig Chancellor to the utmost use, to turn him privately to ridicule, and exaggerate all his eccentricities. In the year 1834, Lyndhurst lost his beautiful and accomplished wife, who was absent from him at the time in Paris. Three years after he fell in love with a beautiful Jewess, to whom he gave his hand in his 66th year, who also became a leader of fashion, and led a life of devotion to him. On the 6th of September, 1841, Lyndhurst became Chancellor under Sir Robert Peel's Ministry, for the fourth and last time, and remained keeper of Queen Victoria's conscience for five years. No Chancellor since the days of the Plantagenets had ever received the Great Seal so often from different Sovereigns. At the passing of the Corn Law Abolition Act by Sir Robert Peel, after his conversion by Richard Cobden, Lyndhurst was bound to defend it when it came to the House of Lords. He is said thus to have addressed a protectionist Peer who apologizingly complained that he was compelled to vote against the government on the measure. "Bad opinion of the Bill, my Lord! You can't have a worse opinion of it than I have; but it was recommended from the Throne, it

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has passed the Commons by a large majority, and we must support it. The Queen's government must be supported." Long and strenuously did Lyndhurst strive, after he had stepped down and out for the last time from the "marble chair," to bring about a reconciliation and fusion between Peel and the Protectionists. The rupture was "beyond all surgery," and he had to be content for eight years to fight Lord John Russell, and all the forms of the new Coalition, until Lord Derby's first Ministry came into office. He refused then to be President of the Council, but at once crossed over to the Ministerial side of the House, and, spreading his ægis at all times over the Premier, said, "I am content he shall reign, but I'll be protector over him." At long past fourscore, while spending his autumn at Dieppe, he was in the habit of assisting his friend Baron Alderon to fly paper kites; but he could hardly be said to have attained a second childishness, when he would amuse himself by turns in perusing the writings of the Greek and Latin fathers on divorce — in order to reply to the Bishop of Oxford on the indissolubility of marriage — and in the amorous novels of Eugene Sue. The affection shown him by his illustrious confreres, Lords Campbell, Wensleydale, and Cranworth, in the latter years of his life, is proof of the personal respect in which his character was held. He made his last speech in the House of Lords in his ninetieth year, speaking even then with much of his wonted brilliancy and power, and peacefully sinking to his rest, breathed his last on the 13th of October, 1863, in his ninety-second year.

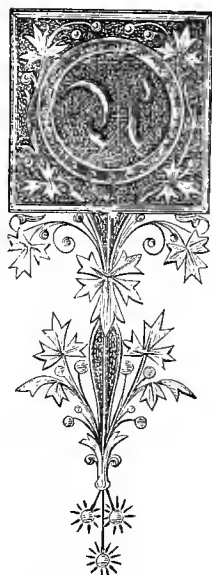
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James Cockcroft & Co. New York.

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THE writer of the lives of the Lord Chancellors and Chief Justices of England, Lord Campbell, who has now been dead more than a decade, has failed to receive the same biographical favor from any cotemporaneous judge, the personal facts necessary for a good life of him are singularly scarce. His career presents altogether a powerful illustration of the value of Scottish intellectual plodding, of thorough uprightness of character, and a political consistency, based on enlightened and moderate views. "Plain John Campbell"—as he described himself when seeking the suffrages of the Edinburgh electors, on being appointed attorney-general, after he had been rejected by his former constituency of Dudley, in 1834—was the son of a Scotch Presbyterian clergyman, who was, for more than fifty years, pastor of his congregation, at Cupar, in Fife. The future Lord Chancellor first saw the light in his father's manse on the 15th of September, 1779; but none of those anecdotes of his infantile peculiarities and Scottish manners with which he has illustrated the life of Brougham and other chancellors, are

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obtainable. He was placed by his father, at the usual age, at St. Andrews' College, and was a cotemporary there of the great Dr. Thomas Chalmers. Having thence imbibed a sound and practical education, John Campbell left his natal locality, for the British metropolis, at the age of nineteen. He describes himself at the time, as being "poor and obscure;" but his indomitable energy never failed him, and he was determined that in whatever he embarked, he would succeed. He was admitted as a student of Lincoln's Inn on the 5th of November, 1800, and at the same time became the pupil of Mr. Warren, an eminent special pleader, and the tutor of many distinguished legists. To assist himself in the means of life, Campbell now applied himself to newspaper literature and reporting. "The Morning Chronicle" was at that time a daily London journal of great power, and edited with much ability, while in parliamentary and other reporting, it always, until it became defunct, some twenty years ago, held the foremost place among the metropolitan dailies. Having formed the acquaintance of the proprietors, Campbell was now employed by them in various ways; and amongst others, as their theatrical critic. With such a journalistic training, Campbell was well fitted to undertake, as he did, after he was called to the bar of Lincoln's Inn, in 1806, his very careful labors as law reporter in the courts. His reports of cases bear evidence of intense industry and judicious selection, and extend nearly over ten years, when his increase of legitimate business in the courts, and particularly at the Old Bailey in criminal cases, compelled their abandonment. He was the first law reporter who adopted the practice of printing solicitors' names

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at the end of each case, a practice which, although at first much objected to, has prevailed subsequently, and been adhered to by the highest authorities in legal reporting. The prudent and canny Scotchman was now, by laborious diligence, making his way, and was proving himself a successful barrister. As, however, there is nothing like assistance from holding to the skirts of other and foremost men, John Campbell most judiciously paid attention to the eldest daughter of the then leader of the legal profession, Sir James Scarlett,—subsequently Lord Abinger,—to whom he was married in 1821. This soon gave him a lift in social status, and in his professional career, while his ambition enlarged itself, and he was now bent on entering the legislative chamber. At Trinity term, 1827, he received a silk gown, and was made a Bencher of Lincoln's Inn, and three years later he was returned to the first Parliament of William the Fourth, as member for the borough of Stafford, being, at that date, forty-nine years of age. He entered the House of Commons as a very liberal Whig, and consistently espoused the same political principles throughout his life. Fully acquainting himself with all the forms and modes of proceeding in Parliament, he became a useful ally to his party, and seized, with judgment, every favorable opportunity of addressing the house. He had long seen the imperfection of the then English system for the registration of deeds, and having made the subject his own, and got nominated the head of a commission to inquire into it, he brought in a bill, which, however, he was eventually, on that occasion, compelled to withdraw, for a general register for all deeds and instruments affecting

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real property in England and Wales. He made a lengthy and effective speech upon the introduction of the Reform Bill by Lord John Russell into the House of Commons; and the description he gave of the manufacture of a member of Parliament at that period, has become memorable. He said, "A solicitor of Lincoln's Inn took down with him six friends in a post-chaise,—that is, he took six pieces of parchment, which would constitute as many voters, and by the aid of these pieces of parchment, the member was made. The six pieces of parchment were delivered to the nominal voters, the election took place, the members were returned, and the bits of parchment were replaced in the green bag—the solicitor and his friends replaced themselves in the post-chaise, and returned to London, having performed the duties of electors of 'Old Sarum,' and sent a representative to that House, not one inhabitant or resident in 'Old Sarum' having had anything to do with the matter." Fully to understand this system of old-time British representative government, it is necessary to explain that "Old Sarum" boasted but one house—an inn, inhabited by its solitary landlord and his family. He was a very useful and effective supporter of the bill in its passage through the Commons, and strongly testified that all classes, high and low, were in favor of it; and that it particularly commended itself to the people, from the belief, that it would give them cheaper bread and beer, and higher wages. In 1832 he voted in favor of the abolition of capital punishment; and, as an ex-dramatic critic, took great interest in a motion of the late Lord Lytton to inquire into dramatic performances and the drama advocating "Free

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trade in theaters, as well as in everything else." He also strenuously denounced the newspaper tax; and on the question of the public right to be present at the sittings of all the courts of justice, said that the people were entitled to it, "blackguards and all;" and that not even an appearance of secrecy in judicial proceedings should be permitted. He was very prone to display in debate that species of dry wit for which—in spite of Sidney Smith's assertion that it takes a surgical operation to get a joke into the head of a Scotsman—his countrymen are remarkable; and on a motion for the abolition of the Court of Exchequer, in Scotland, urged his perfect disinterestedness, on the ground that, being eligible for the office, he could not well desire a more perfect "otium cum dignitate" than "a salary of £4,000 a year to dispose of five cases in four years." On the dissolution of Parliament, after the failure of Lord Grey's first Reform Bill, Campbell was returned for the town of Dudley, in Worcestershire, and retained that seat—being, in the meantime, appointed solicitor-general, and knighted—until 1834. Having then to undergo re-election, when promoted to the higher office of attorney-general, he found he had lost favor with his constituency on the ground of some intemperate expressions which had seriously prejudiced some of them; and, being defeated in that quarter, he sought the suffrages of his fellow-countrymen at Edinburgh, and was elected for that city. His tenure of the two offices of solicitor and attorney-general extended, with one slight interruption, over twelve years; and his success at the bar, outside the liberal emoluments of law offices, was eminently remunerative. The trials of the most

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considerable public interest on which he was engaged, were the cases of *Norton v. Lord Melbourne*, then Prime Minister; the great case against "*The Times*" newspaper; *The Queen v. Lawson*; the trial of the Earl of Cardigan, in the House of Lords, for shooting Captain Tuckett, which was, in fact, a duel on Wimbledon common; and the trial of Hetherington for a blasphemous libel, vilifying the Christian religion: the particulars of all of which are reported in the collection of his speeches. His elevation to the peerage occurred in 1841, when Lord Melbourne eventually gave place to Sir Robert Peel, as Prime Minister, and at the fag end of their tenure of office by the Whigs, Lord Campbell was made Lord Chancellor of Ireland, an office which he had the honor of holding for the lengthened period of sixteen days. The proceedings in this case, by the government, have not inaptly been described as "questionable in their inception, precipitate in their progress, and extremely ludicrous in their close." In that year, the ministry being in a very precarious position, and a bill brought in by them "for facilitating the administration of justice," which could more truly have been called a bill "for providing for Sir John Campbell," having failed, it became necessary, in some way to look out for the fortunes of the attorney-general, who stood, as he would have said, "betwixt the de'il and the deep sea." The learning and tact of Sir John were beyond doubt, and his right to advancement unquestionable, while the only place into which he would exactly be made to fit, was the Lord Chancellorship of Ireland. This was held by the venerable Lord Plunket, a judge equally distinguished by his eloquence

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and the association of his name with the intellectual history of his country; but as that learned man would not move aside easily, it was found necessary, to carry out the governmental job, to wrest the seals of his office from his grasp. Lord Ebrington, the Lord Lieutenant of Ireland, accordingly, at the dictation of the premier, wrote a letter, couched in no ambiguous terms; and intimating that, being aware of the many favors which he had experienced from the government, his resignation would be taken as a return favor. Of course no man of honor could retain the seals of the Lord Chancellor's office for one day after such a letter, without degradation; and Lord Plunket immediately forwarded his resignation to Lord Melbourne. Campbell was at the time seeking to regain the suffrages of the people of Edinburgh, in association with his colleague, Macaulay; and great indignation stirred the people and the bar of Ireland, when they learned of the outrage that had been accomplished. On the occasion of the address presented to him by the Irish Bar, Lord Plunket said: "With regard to the particular circumstances which have occasioned my retirement, I think it a duty that I owe to myself, and to the members of the bar, to state that for my retirement I am not in the smallest degree answerable. I have neither directly nor indirectly sanctioned it, and in giving my assent to the proposal which was made to me of retiring, I was governed solely by its having been requested of me as a personal favor to do so, by a person to whom I owe such deep obligations, that an irresistible sense of gratitude made it impossible for me to do anything but what I have done." Perhaps a man of nicer and more sensitive feelings

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than Campbell would have been loath, under such circumstances, to take the seat vacated by such a man as Plunket. However, circumstances ordained that he should make no mark as Irish Chancellor. He landed at Kingstown on the 28th of June, and, sitting in the Court of Chancery on the 2d of July, heard one or two causes; but a change of ministry immediately occurred, and, after sixteen days' tenure of office, he took his departure for England, leaving behind him not one single trace of official duties discharged or public benefits conferred. It is questionable, however, whether Lord Campbell's fame would have been as great as it is, had he either remained in the Irish Chancellorship for the following years or been earlier created Lord Chief Justice of England; for, to the nine years from 1841 to 1850 we owe almost his entire work as a legal historian. It is strange to reflect how much more perishable are the best efforts of oratory than the quiet labors of the biographer—new speeches, unlike new books, being seldom popular. From Ulysses to a Gambetta, a Bright, an Evarts, or a Wendell Phillips, orations have not been familiarly read. The men who made the bar of France illustrious by their eloquence, are forgotten; and few know, even, that Robespierre was a brilliant speaker. Pitt, Fox, Sheridan, and Erskine enjoyed but an evanescent celebrity, and Burke is only occasionally taken from the shelf; while, of the great orators of the two great nations of antiquity, only Cicero and Demosthenes retain their hold on later generations. Those, however, who have enriched literature with good histories and biographies, have secured the permanence of their names, just as Samuel Johnson is best known by his lives of the poets,

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his journey to the Hebrides, and Boswell's voluminous work of small gossip relating to him. Whatever be their faults, there is no question that Lord Campbell will live most in his histories of the English Chancellors and Chief Justices. There is certainly an "*ad captandum*" vein running throughout them, which may be thought a little undignified in so eminent a judge in recounting the principal incidents in the lives of his predecessors in office; but Lord Campbell was, in every respect, a first-rate teller of stories, and had the gift of placing interesting details in the strongest light. That he thoroughly realized in his own mind the dignity and every other quality necessary to adorn the judicial bench, the following extract will show. He says: "According to the ancient traditions of Westminster Hall, the anticipations of high judicial qualities have been often disappointed. The celebrated advocate, when placed on the bench, embraces the side of the plaintiff or the defendant with all his former zeal, and, unconscious of partiality or injustice in his eagerness for victory, becomes unfit fairly to appreciate conflicting evidence, arguments, and authorities. The man of a naturally morose or impatient temper, who had been restrained while at the bar by respect for the ermine, or by the dread of offending attorneys, or by the perils of being called to personal account by his antagonist for impertinence, when he is constituted a living oracle of the law, puffed up by self-importance, and revenging himself for past subserviency, is insolent to his old competitors, bullies the witnesses, and tries to dictate to the jury. The sordid and selfish practitioner who, while struggling to advance himself was industrious and energetic, having gained the object of his ambition,

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proves listless and torpid; and is quite contented if he can shuffle through his work without committing gross blunders or getting into scrapes. Another, having been more laborious than discriminating, when made a judge, hunts after small or irrelevant points: and obstructs the business of his court by a morbid desire to investigate fully, and to decide conscientiously. The recalcitrant barrister, who constantly complained of the interruptions of the court, when raised to the bench, forgets that it is his duty to listen and be instructed, and himself becomes a by-word for impatience and loquacity." His eulogy upon Lord Chief Justice Holt is also a masterly exposition of the highest estimate of the judicial character. He says: "He may be considered as having a genius for magistracy as much as our Milton had a genius for poetry, or our Wilkie for painting. Perhaps the excellence which he attained may be traced to the passion for justice by which he was constantly actuated. This induced him to sacrifice ease and amusement, and literary relaxation, and the allurements of party, to submit to tasks the most dull, disagreeable, and revolting, and to devote all his energies to one object. The lustre of his fame in latter times has been somewhat dimmed by our being accustomed to behold judges little inferior to him; but we ought to recollect that it is his light which has given splendor to those luminaries of the law. During a century and a half, this country has been removed above all others for the pure and enlightened administration of justice, and Holt is the model on which, in England, the judicial character has been formed." There is little doubt that Campbell's "Lives," will ever remain a standard work; but the wide

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difference of various criticisms upon them may be judged by the following. One critic says: "These works acquired a greater popularity than might have been expected, and indeed they are written in a sufficiently flowing and readable style. Lord Campbell was not only fond of literature, but he had a keen relish for popularity. He did his best to accumulate anecdotes and dash off graphic sketches like the regular "light writers" of his time, and he achieved considerable success in this new sphere. But accuracy is not by any means a characteristic of those "Lives," and there are often faults, which detract from their merit. The style, though lively, is loose, and sometimes even vulgar, and the gossip of each period about the great men of whom Lord Campbell is writing, is produced with a gusto which says little for his delicacy of taste, and argues, perhaps, some want of real kindness and generosity." On the other hand, one of the ablest of the reviews says of these works: "Lord Campbell does not flatter, but he is perfectly candid. His leanings seem generally favorable to his sitters. He delights in bringing out their courage, their justice, their generosity, their learning, and their acuteness. That he should be equally honest in marking their defects, is what would have been required by themselves, and we trust would not be regretted by their friends." Some of the "Lives" which were not finished at his death, have been published posthumously, under the editorship of his daughter, and particularly that of Lord Lyndhurst, who outlived him by two years. During this period of judicial retirement and literary labor, Campbell was ever a useful auxiliary to his party in the House of Peers, and sat regularly in all cases of appeal, and

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particularly Scotch. At the conclusion of this period of enforced retirement from government office and judicial functions, Campbell was fortunate enough to appear again before the public in a more exalted position. In the year 1850, the health of Lord Denman having completely broken down, he was compelled, most reluctantly, to resign the office of Lord Chief Justice; and his regret was the more poignant, that he had no chance of nominating his successor, and that he was aware that the office would in all probability be offered to Campbell, who, of all men, he was the most unwilling should succeed him. Between those two learned Lords harmony had long ceased to exist, owing to the parts which they had respectively taken in the great cause relating to the privileges of the House of Commons of *Stockdale v. Hansard*. Campbell, then Attorney-General, laid down the doctrine that the House of Commons is the sole judge of its own privileges, which Lord Denman characterized as "an audacious proposition," implying, as he said, "that the House of Commons has power, by the Constitution of England, to make anything lawful which it declares to be done in virtue of its privilege; or, in still more general language, that we in England live under an absolute despotism, wielded by the majority of the knights, citizens, and burgesses in the Parliament assembled for the time being." Lord Denman never forgave Campbell for the part he took in those proceedings; and, more especially, for repeatedly insinuating, both in writing and orally, that Denman, in denouncing as he did the claim to privilege set up by the House, was actuated by a vain desire of putting himself forward as a champion of the people's rights,

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with a view of obtaining popular applause. In reality, none knew better than Campbell that the expression of the Chief Justice's opinion on the question of privilege was not in any sense volunteered by him, but was forced from him by the leading counsel for the defendant, in insisting on a decision upon it. Lord John Russell having offered him the post on the first day of Easter term, 1850, Lord Campbell took his seat in court as Lord Chief Justice, a position in which his general bearing and great urbanity, combined with the correctness of his legal decisions and the thorough integrity of his character, combined for nine years to add to his fame. Having, during several years, been mainly occupied in public as a Peer of Parliament and Judge in appeal cases in the House of Lords, he had now an opportunity of displaying his immense experience at the bar, and the general accuracy of his legal knowledge. Remarkable for his clear and rapid appreciation of the important points of a case, and for his unwearied attention to the proceedings before him, his legal decisions have been regarded as sound and indisputable, while, if he had any judicial failing, it is said to have been that in cases at *Nisi Prius* he was too anxious to win over the jury to his own opinions, and to accomplish that he was occasionally apt to descend to the arts of an advocate. As a judge at common law, his patience was exemplary, and his decisions those of a mind well stored with legal and forensic knowledge, while his early occupation as a law reporter, and the production of his famed reports of cases, which had earned a reputation as models of correctness and propriety of selection, contributed not a little to the accuracy and facility of his

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decisions as a judge. At length, in the year 1859, Lord Campbell attained the last rung in the ladder of his legal elevation. Lord Derby and his conservative ministry having then resigned and given place to Lord Palmerston's second administration, the great seal was offered by the Premier to Lord Chief Justice Campbell. He sat on the woolsack for nearly two years, adding to his fame; and, at the advanced age of eighty, fulfilling with distinguished grace and ability the duties of Chairman of the House of Lords. Having sat in the Court of Chancery on the previous day, he was suddenly taken with a severe and immediately fatal illness on the 24th of June, 1861, leaving an unsullied reputation behind him, and the character of a most laborious and painstaking lawyer.

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HATEVER may have been the infirmities and defects of character of Sir Edward Coke when he held the office of attorney-general of England, there can be no question that, besides affording a bright example of judicial independence—on which ground he was dismissed from the Chief Justiceship—England was indebted to him for one of the main pillars of its constitutional rights. When the other Judges basely succumbed to the despotism of the sovereign, and to the blandishment, craft, and violence of the court of Charles I., Coke framed and carried the Petition of Right, containing an ample recognition of the liberties of Englishmen, which bore living evidence against the lawless tyranny of a King who governed without Parliaments, and which, when Parliaments were resumed in 1688, was made the basis of the settlement then permanently established. Chief Justice Coke's father, although possessed of good patrimonial estate, was bred to the law, practised at the bar till his death, and reached the dignity of a Bencher of Lincoln's Inn. He married Winifred Knightley, daughter and

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co-heiress of William Knightley, of Margrave Knightley, in Norfolk; and at the estate of Mileham, in that county on the first of February, 1551, their only son, Edward, was born. He came into the world unexpectedly, at the parlor fireside, before his mother could be carried to her bed, and from the extraordinary energy he displayed on that occasion, high expectations were entertained of his future greatness. His mother taught him to read, and to her tuition he ascribed the habit of steady application which stuck to him through life. He was sent to the grammar-school at Norwich in his tenth year, shortly after which he lost his father who died in Lincoln's Inn, and was buried at St. Andrew's, Holborn. His mother, some time after, married again, and he continued his education at the same school for seven years, but exhibited there much greater powers of memory than of imagination. At his sixteenth year, on October 25th, 1567, he was admitted a pensioner of Trinity College, Cambridge, Whitgift, afterwards Archbishop of Canterbury, being his tutor; but he left the University without taking a degree. As the family estates were charged with his mother's jointure and portions for his seven sisters, he determined to follow the profession of the law, in which his father had attained prosperity ere he was so untimely cut off. He therefore went to London with a determination to become a barrister, and rise, if possible, in the profession. He began his studies at Clifford's Inn, one of the Inns of Chancery, and on the 24th of April, 1572, became a student of the Inner Temple. He now addicted himself to a most laborious course of study, which he steadily pursued. He

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went to bed at nine, and rose at three, in the winter-time lighting his own fire. He read Bracton, Littleton, the Year Books, and the folio abridgments of the Law, till the court met at eight, where he remained till they rose at twelve. He attended readings or lectures in the afternoon, and resumed his private readings till supper-time, at five o'clock. He then attended the "Moots," where difficult questions of law were proposed and discussed. He then shut himself up in his chamber, and worked at his common-place book till bed time. He never indulged in plays or in such unprofitable reading as poetry, and it is said that during the whole course of his life he never either read or saw a play. His proficiency in legal studies was so great that the Benchers of the Inner Temple called him to the bar on the 20th of April, 1578, being one year before the usual time; and the first brief he held was in a case of "scandal magnatum," in which he defended the Vicar of Norlingham against Lord Cromwell, the son of the Earl of Essex, the great ecclesiastical reformer. He was soon after appointed Reader of Lyons Inn, where he lectured to students of law and attorneys with such applause that crowds of clients soon came to him. He was about this time engaged in the great "Shelley" case, which by Queen Elizabeth's own order was removed into the Exchequer Chamber before the twelve judges, and from henceforth he got to be employed in every case of importance tried in Westminster Hall, from which he derived an immense income. Being always very avaricious, he now began to add manor to manor, until the Crown was alarmed at the possibility of his possessing too much for a subject; but having obtained leave to buy "one acre more," he became proprietor of the great Castle Acre estate, of itself equal to all his

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other domains. A few years after he had been called to the bar, he married Bridget Paston, a young lady of beauty, learning, and high connections, who brought him a fortune of £30,000, with whom he lived in entire harmony, and who bore him ten children. In 1585 he was elected Recorder of Coventry; in 1586, of Norwich; and in 1592, of London, and he was also appointed Reader, or Law Professor, of the Inner Temple. The Recorder-ship of London he held but a very short time, for in May, 1592, he was appointed Solicitor-General to the Queen, although, unlike his great rival, Francis Bacon,—who was a polished courtier, and had taken “all knowledge for his province,”—he never enjoyed Elizabeth’s personal favor. He was shortly after returned to Parliament as member for his native county of Norfolk, an honor which was quite unsolicited and which led to his being chosen Speaker of the House. In that capacity he offered the most fulsome adulation to the Queen, whose reply to him, when he appealed for the usual liberty of speech, and the other ancient privileges of the Commons, was a definition of that liberty as “not to speak every one what he listeth, or what cometh into his brain to utter; but your privilege is *aye* and *no*,” and she specially guarded her “faithful commons” against meddling with reforming the church, or transforming the commonwealth. It is almost impossible to reconcile the subsequent framer of the bill of rights with the “Mr. Speaker Coke,” who even refused to read a bill for reforming ecclesiastical abuses, “on his allegiance;” and, on the dissolution of Parliament, assured her majesty “our lands, our goods, our lives are prostrate at your feet to be commanded.” Coke was shortly after made Attorney-General, and, out of mere jealousy, prevented Bacon being

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appointed Solicitor General—an act which Bacon afterwards more than requited by instigating and working Coke's "superseas" from the Bench. Coke's conduct as a criminal prosecutor for the Crown incurred him never-dying disgrace by the manner in which he insulted his victims. In the case of Robert, Earl of Essex, after a gross exaggeration of the facts, he thus concluded: "But now in God's most just judgment he of his earldom shall be Robert the last that of the kingdom was thought to be Robert the first." About this time he had the misfortune to lose his first wife, at the age of thirty-four, whom he called "most beloved and most excellent," and he married secondly Lady Hatton, grand-daughter of Lord Burleigh, in 1598. She was a beautiful young widow, without children and with an immense fortune, and was induced by family influence to marry him, but she would not do it in public, refusing "to be paraded in the face of the church as the bride of the old wrinkled Attorney-General" bordering on fifty. So the wedding was private; but for marrying at an uncanonical hour, and against the injunction otherwise of Whitgift, the Archbishop, a libel was exhibited against him and his wife, involving excommunication, so that Mr. Attorney had to make a most humble submission and plead "ignorance of the ecclesiastical law," at the commencement of a union which turned out a most unhappy one through discrepancy of tastes and manners. She refused to take his name or to be known as "Mrs. Coke," or "Cook," as she wrote it; for it was not till James's reign that Coke was knighted. On Elizabeth's death, he was continued in office, and as public prosecutor his first appearance in the new reign was on the trial of Sir Walter Raleigh, charged with high treason in a plot to put Lady

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Arabella Stuart on the throne. His conduct on that occasion was perfectly brutal, and among his violent torrents of abuse to hide the weakness of his evidence, he said, "Thou art a monster. Thou hast an English face, but a Spanish heart. Thou viper, thou traitor, I protest before God I never knew a clearer treason." Lord Salisbury, one of the commissioners, rebuked Coke by saying, "Be not impatient, good Mr. Attorney, give him leave to speak;" but on this very verdict, so disgracefully obtained, Raleigh was many years after hung, drawn, and quartered. To Coke also fell the prosecution of Guy Fawkes and the other conspirators of the Gunpowder Plot, which he carried out with the most cold-blooded cruelty. Having filled the office of Attorney-General for twelve years, and amassed an enormous fortune, he was, in 1606, made Chief Justice of the Court of Common Pleas. However odious may have been the defects of Coke's character as the law officer of the Crown, which have merited and justly received the severest censure, he certainly made most noble amends for them in the subsequent part of his career, which entitle him to our highest admiration as a bright example of judicial independence. Holding his office at the will of a King and Ministers who were disposed to make the courts the instruments of tyranny, he held himself as loftily on the Bench as any judge who has ornamented it since the time that judges could be removed from office for misconduct only on the joint address of the two Houses of Parliament. His purity was unsuspected in an age of prevalent corruption; and, while he contemned the threats of power, he was never seduced by the love of popular applause to pronounce decisions devoid of precedent or principle. His manner even changed to blandness, and he was quite courteous

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in the discharge of the office of Chief Justice of the Common Pleas, which he retained for seven years. The only case in which he is ever supposed to have yielded to the government is in that of the "Postnati," when he concurred in the opinion that all persons born in Scotland after James the First's accession to the throne of England, were entitled to the privileges of native-born English subjects. Coke was not, however, much acquainted with international law, and seems to have been contented with the doctrine of "remitter" as laid down by Littleton. The first contest into which Coke got with the Royal power was in reference to the Court of High Commission, which was being used as one of the chief engines of James, who considered himself entitled to rule England as an absolute Sovereign. This court had been established by Elizabeth for cases purely ecclesiastical; but it was now attempted to subject all persons to it, lay and spiritual, and to give it cognizance of temporal rights and offenses. As a commencement, the court claimed the right to send a pursuivant at once into the house of any person complained against, to arrest, and to imprison him. The matter being discussed in the Common Pleas, Lord Chief Justice Coke, supported by his brethren, determined that the practice was contrary to *Magna Charta*; and that, if the pursuivant was killed in the attempt to enforce the mandate of the Court of High Commission, it would not be murder. This decision it was attempted to set aside, and as a last device it was sought to include Coke himself among the judges of the Commission, but he most resolutely refused. After his removal from the Bench, however, this court continued its usurpations until it was swept away by one of the first acts of the Long Parliament. After this

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check, the truckling, miserable Archbishop Bancroft suggested the expedient of "the King judging whatever cause he pleased in his own person, free from all risk of prohibition or appeal." Accordingly, James had all the judges before him to consider this proposal, and nobly did the character and independence of Coke distinguish him on the occasion. Bancroft argued from Scripture the Divine wisdom of a King, and that he, the principal, must be able to do what his agents, the judges who administered law in his name, did. The pedant Sovereign then said, "I always thought, my Lords, and by my 'saul' I have often heard the boast, that your English law was founded on reason. If that be so, why have not I and others reason as well as you, the judges?" Coke at once told James, with all reverence, that he was not learned in the law of England, "which law is an art which requires long study and experience before a man can attain to the cognizance of it. The law is the golden met-wand and measure to try the causes of your Majesty's subjects, and it is by the law that your Majesty is protected in safety and peace." *King James* (in great rage), "Then I am to be *under* the law, which it is treason to affirm." *Coke, C. J.*, "Thus wrote Bracton, Rex non debet esse sub homine, sed sub Deo et lege." This rebuke caused a profound sensation, but in spite of it the conceited monarch is said sometimes to have tried his hand as a judge, although he at length abandoned the trade in despair, saying, "I could get on very well hearing one side only, but when both sides have been heard, by my 'saul,' I know not which is right." Terror of Coke was apparently the real reason for abandoning this piece of folly, to which James's sycophants were urging him. Coke now incurred the still deeper dis-

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pleasure of the King by declaring against a "pretension" called a "prerogative," which if not checked might soon have superseded Parliament. Proclamations by the Crown to enforce law from ancient times had been admitted, but James had got into the habit of issuing these proclamations whenever he chose to think that the law required amendment. At length, on the 7th of July, 1610, the Commons, being fully aroused by these attempts to supersede their functions, presented an address to the Crown, in which they complained not only of the frequency of them, but that James's "proclamations tended to alter points of law, and to interfere with men's liberty, goods, and inheritances." The presentation of this remonstrance was assigned to Bacon, now Solicitor-General, who endeavored to smooth over the matter to the King, yet James was much alarmed, and eventually referred the matter to the judges. Their answer was drawn by Coke, and stated that the King by proclamation can not create an offense which was not an offense before, but, "for prevention of offenses, may admonish his subjects by proclamation, that they keep the laws and do not offend them, upon punishment to be inflicted by the law." Through the intrigues of his rival, Bacon, Coke was now removed from the Court of Common Pleas to the Chief Justiceship of the King's Bench, which, although a higher office, was less lucrative, and Sir Francis Bacon, at the same time became Attorney-General. Coke was proud of his new dignity, and was fond of styling himself "Chief Justice of England," a title which only some of his predecessors had assumed. He subscribed £2,000 towards a "Benevolence," to meet the urgent necessities of the Crown, but stoutly maintained that a "Benevo-

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lence" was a free-will offering, and not a tax. The last and deadly offense given by Coke to the King, was in the case of "Commendans," or the right to hold other ecclesiastical preferments with a bishopric. The Bishop of Winchester represented to the King that the judges, in denying this, were attacking the prerogative of the Crown; and a prohibition was issued to the judges. They replied in a bold and respectful letter, and James, in a fury, again summoned them before him at Whitehall, telling them "your letter is both couched indecently and fails in the form thereof." Upon this they all fell on their knees, and begged for pardon; while Bacon became personally offensive to the Chief Justice. Thinking that Coke was equally humbled with the others, the following question was then put to them: "In a case where the King believes his prerogative or interest concerned, and requires the judges to attend him for their advice, ought they not to stay proceedings until His Majesty has consulted them? *All the judges except Coke*; "Yes! Yes! Yes!" *Coke, C. J.*: "When the case happens I shall do that which shall be fit for a judge to do." This simple and sublime answer perfectly abashed the servile judges, and it may be said that from that moment, with Bacon's connivance and hate, Coke's judicial fate was sealed. About this time he refused to give the Clerkship of the Court of King's Bench to a Court favorite, and insisted on his right to dispose of it for the benefit of the judges. He was shortly after summoned before the Privy Council and charged with some frivolous breach of duty when Attorney-General twelve years before. He was also charged with misconduct in a dispute with the

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Lord Chancellor, and with insulting the King when called before him in the case of *commendams*. He was shortly after put under suspension by the King's command, so far as that he should forbear to sit at Westminster; and finally Bacon drew up the following "supersedeas," which received the sign manual, and passed the Great Seal: "For certain causes now moving us, we will that you shall no longer be our Chief Justice to hold pleas before us, and we command you that you no longer interfere in that office, and by virtue of this presence we at once remove and exonerate you from the same." When this document was delivered to Coke, he is said to have received it with dejection and tears, but the momentary weakness may fairly be forgiven him for a still brighter part of his life followed, to which he quickly rallied, and wherein he conferred lasting benefits on his country. The vengeance of Bacon, who was now Lord Chancellor, was by no means satiated; and, among other spiteful designs, he even meditated bringing Coke before the Star Chamber. To regain his influence at Court, Coke now entered into an intrigue to marry his little daughter, by Lady Hatton, to the elder brother of the favorite, Buckingham, who was three times her age and very poor. Lady Hatton had offered the girl in marriage to the Earl of Oxford, and she carried her off to Oatlands, the residence of her cousin, as soon as she knew of her husband's scheme. There Coke followed them with a band of armed men, broke into the house, and brought back the daughter, on whom vast estates were settled. He then instituted proceedings against his wife and put her under restraint. Bucking-

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ham of course supported him, and Bacon now trembled lest the great seal should be transferred to Coke, and he stopped at once the prosecution in the Star Chamber, and agreed to keep Lady Hatton in confinement. The marriage was accomplished with Buckingham's brother, and turned out most inauspiciously, while Lady Hatton remained as spiteful as ever against her husband. Sir Edward was now partially reconciled to the Lord Chancellor, occasionally sat at the Council Table, and in the Star Chamber, and also on Government Commissions. At length he was elected member of Parliament for Liskeard, and there seemed for a time some chance of his co-operating with the government. The Puritans had been gaining ground, however, and he put himself at their head with the desire of obtaining a legal redress of grievances. He was chosen chairman of the committee of supply, where the questions of grievances and supplies were taken together. Just at this period occurred the downfall of Lord Bacon, who confessed to high crimes and misdemeanors, and whose disgrace afforded Coke some ground for hope of office with Buckingham's assistance, but they were both outwitted by a shrewd Welsh parson, named Williams, who was made Lord Keeper. The King having insisted that the Commons had no privileges except such as were granted by him, the House made a protestation of their liberties, franchises, and undoubted birthright for the redress of mischiefs and grievances, which was described by James as "an usurpation which the Majesty of a King can by no means endure," and he immediately dissolved the Parliament. Coke, with Seldon, Prynne, and other leaders

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of the opposition, were sent as prisoners to the Tower of London. The locks and doors of his house and chambers were sealed up, and his papers seized; but he was brought before the Council only on old and frivolous charges, and after a few months he was set at liberty, at the intercession of Prince Charles. At the next Parliament, two years later, he was returned for Coventry, in his seventy-third year, and at the close of the session retired to the country, till he heard of James' death, in the spring of 1623. In the new Parliament he was again returned for Coventry, and, having great hopes of the new Sovereign, his immediate demeanor was marked by great moderation. In order to disqualify Coke from sitting, when Charles summoned his second Parliament, he was appointed Sheriff of Buckinghamshire, the duties of which office he discharged in a most exemplary manner; he, the Ex-Chief Justice, standing behind the Circuit Judges worshipfully, with a white wand in his hand. A war with France being engaged in, Charles, who had endeavored to do without Parliaments, found himself compelled, in 1628, to summon the great council of the nation. Coke's popularity was so great that he was now returned for two counties. This was the great crisis of the English Constitution. In this Parliament resolutions were carried by Coke which, half a century after, were made the foundation of the *Habeas Corpus* Act; and the famous *Petition of Right*, England's second *Magna Charta*, was passed. For the good of the Constitution, the Lords on this occasion gave way to the Commons in not insisting on their own amendments. Buckingham would not venture to

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advise a direct veto by the words "Le Roy s'avisera," but framed a most evasive and fraudulent answer in the King's behalf, wherein Charles said that he held himself in conscience as much bound to preserve the just rights and liberties of his subjects as to maintain his own prerogative. The Commons then laid all the blame upon the Duke of Buckingham, and the Lords and Commons agreed to a joint address, which obtained the Royal assent in the usual form, "Soit droit fait come il est désiré," and the Petition of Right became a statute of the realm, amid transports of joy from the whole nation. Sir Edward Coke had now reached his zenith. Immaculate as a judge, and distinguished as the greatest expounder of the Common Law of England by his commentary on Littleton, he was also admired by the nation as a statesman and a patriot. He had never taken medicine in his life, and when he was over eighty, upon receiving a severe accident, he refused to have recourse to the doctors. He was watched during a long illness by his daughter, whom he had forgiven. He gradually sank to rest, in the eighty-third year of his age, on the 3rd of September, 1634, enjoying the full possession of his faculties to the last, and devoutly ejaculating, "Thy kingdom come! Thy will be done!"

*The original was misquoted
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CHARLES O'CONOR.



It is not without reason that the title of Nestor of the Bar has been universally accorded to Mr. Charles O'Connor, and it is too modest an estimate of his legal altitude to assert that all his great success and attainments may be summed up in the word "study." Men may plod and plod, and yet without other qualifications be very far off from the golden gates of fame. In the case of Charles O'Connor, there will be found an absolute genius for law, and a passionate love of his profession, a very legal inspiration, conjoined with tireless energy and plodding labor. Brought up under the most unfortunate circumstances, and early accustomed to the most severe privations, the great leader of the New York Bar, so steeled in the school of adversity, may well be regarded as the very highest type of an intellectually self-made man, coining from his natural ability, in the school of adversity, what far exceeds the value of gold. He is the descendant of an old and distinguished family in Connaught, Ireland, whose lineage can be traced back to those kings who were the last Milesian monarchs in that oppressed island; and the present head of the family in the

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old country, is a patriotic and eloquent statesman who represents the county of Roscommon in the British Parliament, and bears the ancient title of the O'Connor Don. The great patriotic and other qualities of Charles O'Connor might, upon the principle "*fortes creantur fortibus*," be presaged by the ardent character of his father, Thomas O'Connor, who took refuge in this country in 1801 to escape the persecution of English tyranny. At a very early age, in fact when quite a boy, Thomas had entered ardently into the spirit which ended in the rebellion of 1798, shaking Ireland to its centre. Had it not been for his extreme youth, he would have shared the fate of Robert Emmet, and our great lawyer would never have seen the light. With feelings of resentment against British oppression, and a desire to enjoy that liberty which he said existed only under the glorious Constitution of the United States, he arrived here in the year 1801. The father of John McKeon's mother came out in the same ship with him, and their remains now occupy the same vault in St. Patrick's Cathedral. On his arrival in New York, Thomas, finding the name of a Hugh O'Connor in some directory of the period, hunted up his supposed relative, but it turned out that there was no immediate relationship. This, however, was a matter which was very soon accommodated, for the said Hugh O'Connor having a very pretty daughter, and receiving the refugee, his namesake, with great cordiality, Thomas O'Connor was soon after married to the young lady, and of this union sprang the illustrious legist and advocate. Charles O'Connor was born on the 22d of January, 1804, at 125 Front Street, very near his present office in Wall street. Meanwhile his father had

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purchased four thousand acres of land in Steuben county, which then bore the name of Genesee, and he shortly after removed to his wilderness home, where he was joined by Gen. Kernan, uncle of John McKeon. In this uncultivated district little Charles passed the first six years of his life, his earliest recollections being of the wild and pioneer life led in that part at the time, when the settlers were alarmed by lurking Indians by day, and at night terrified by wolves, and were quite snowed up in the winter months. His father, however, returned to New York, and got into deep embarrassments; being eventually arrested and lodged in the debtors' prison at No. 1 Chatham street. Here it was that Charles O'Connor, brought back from the wilderness, first saw him, to his recollection, surrounded by bars, and all the painful associations of prison life; but he soon learnt that it was no disgrace, but the result of sheer misfortune. He says: "I saw the truth in his eye and mien." In this gloomy place, however, the little boy spent many a happy month with his father and mother.

Released at last, Thomas O'Connor—who was a very able and highly educated man, and who died at length at the age of eighty-four with the knowledge of his son's opening greatness—entered the ranks of literature and started a paper called "War," which was afterwards changed to the title of the "Military Monitor." This was just at the outbreak of the war of 1812, and Thomas O'Connor, with burning indignation towards England, wrote most vigorous and slashing articles against the foe of his adopted country. Charles at the age of between eight and nine became office boy in his father's literary establishment, representing him when

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absent, and doing the outside work of delivering the papers. New York had at that time only a population of ninety thousand, Brooklyn two thousand, and Jersey City was but a village; and it was Charles's Saturday work to deliver the papers all around, crossing by small boats to the adjacent towns. He says, "I went boldly up door-steps, chucking papers under doors, plunging into areas, and diving into alleyways, regardless of police or anybody, for my bundle of papers was a perfect safeguard, as good to me as the ægis and crested helmet of Hector." On one occasion a tall gentleman of military bearing called at the office, and asking for the subscription-book, inserted his name in it. The little boy was greatly astonished at the tremendous flourish which followed his name, coming naturally to the conclusion that none but a very great man would make so great a flourish. His delight when he found out that it was General Zebulon Pike, a real general in the army, whose signature he had had the pride of taking, was only equalled by his sorrow when he learnt that the general had been killed at the battle of Little York. Six months at a public school was all the tuition that Charles O'Connor received, save in the office of the "Shamrock," which was his father's last paper, and at his father's hand. A ripe and accomplished scholar, Thomas O'Connor instructed his son in English, the classics, the higher mathematics and French, so that at the very early age of twelve Charles was able to enter upon legal studies. He read law first in the office of Mr. Henry W. Stannard, then in that of Mr. Stephen P. Lamoyne, and thirdly with Mr. Josiah D. Fay, father of

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the United States Minister to Switzerland. With undeviating energy he applied himself to master its principles, sitting up part of the night even, to pursue an unremitting study, which he followed with the force and fervor of passion. This, too, amid the greatest privations, so much so that the pangs of hunger were not strange to him, while he was poorly clad, and he could never think of any such indulgence as amusement, for want of means. Often he says himself, "I went all day without eating, and to bed without any supper." Perhaps this early starvation may have laid the seeds of that weakness of the digestive system from which he has suffered so much, and which has so recently brought him so near death. Conscious of his great latent powers and of the possession of "the true Promethean spark, kindling all souls and his own," and with unutterable yearnings after the honor and dignity of his profession, he boldly struggled on, contented for awhile with obscurity. He knew no excellence without labor, "*sic itur ad astra.*"

Mr. Lemoyne, with whom he was for some time reading law, upon one occasion asked him why he did not join the regiment of militia of which he was colonel, and on O'Conor telling him he could not bear the expenses, said he would gladly pay them for him. At the age of seventeen the young law student accordingly joined the one hundred and forty-second militia regiment, and sorrowfully related his remembrance of one Fourth of July, on which, after having been marching and countermarching all day, he went home supperless to bed, leaving the remainder of the regiment to feasting, roystering, and merrymaking. He said that Mr.

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Lemoyne had evidently made no provision for his eating expenses, and after that refused to do any further military duty. In the year 1824 he was admitted to the bar, but did not frequent the courts or undertake minor cases, as was usual with the junior members of the profession. His first practice was in the Marine Court, the Civil Justice, and the Court of Sessions, where he carried everything before him, not only against young men of brilliant talent, but with old and practiced lawyers, and showed himself a complete master of the nicest metaphysics of law. His objection to undertake small cases was very great, and is illustrated by the following story. A second mate of a vessel, who was a friend of his and was constantly getting into scrapes, had required his services in these matters so often that he at length told him not so reckon on him any longer. The sailor came rushing into court on one occasion in breathless haste, saying he wanted him upon something very important, but O'Connor refused to listen to him. He assured him, however, that it was a big case, for he was under charge of an officer, having been arrested on a charge of murder. The case being large enough, O'Connor undertook it, and succeeded in clearing his client.

The first really important case in which O'Connor was engaged had reference to the election of the trustees of St. Peter's Church, and is reported in Cowen's Reports. On that occasion he had to contend against the high genius, power, and experience of Thomas Addis Emmet, but he gained his cause triumphantly. While still young, the great question of Southern rights under the Constitution was the absorbing

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topic of controversy, and he rendered himself famous in the memorable case of the fugitive slave Jack, both before the Supreme Court of the state, and the Court of Errors, successfully carrying all his points. His advocacy in the Forrest divorce case could hardly add to a reputation which was already established, but it is memorable as a skillful victory won by him over that brilliant advocate, John Van Buren. On that occasion he was the recipient of a magnificent silver vase, from thirty leading ladies, and was presented by the Bar with a silver pitcher, on which was engraven the motto of the O'Connor Don, "From God cometh the conquering champion." Among other cases in which he greatly distinguished himself may be mentioned that of the Life and Trust Company, involving millions; the Almaden Mining Company's case, respecting a tract of land in California, argued before the United States Supreme Court, and the famous Lemon case, in which Mr. W. M. Evarts was his opponent. The famous Parish will case, involving millions, is fresh in every one's mind, upon which O'Connor worked for years, to be crowned with victory at last. One of the witnesses in that suit being asked whether he knew Mr. O'Connor personally, said he ~~thought~~ he did, as Mr. O'Connor cross-examined him once, and had him in hell for three days. It has been very truly said of the great advocate by a writer that the profession generally would hear with as much pleasure that a Bengal tiger with a liberal amount of chain was to be opposed to them in a case, as that Mr. O'Connor was engaged on the other. They dread his ability, and, too, his general haughty demeanor. Unlike such a man as Sir James Scarlett, his power lies not with juries, but with

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the bar and the bench, and in the power of adaptation of his profound legal knowledge. He is severe in his habits, and rigid in his intercourse with lawyers, while when he has lost a case he has been known even to quarrel with the judge. Privately he is a most agreeably intellectual companion; and although impetuous in his public duties, he has frequently evinced how well he can keep his temper under control. Some of his adversaries have almost hated him from the industry and pertinacity with which he will push his cause. No lawyer ever more conscientiously put himself in his client's shoes; and he never took a side which he did not think an honest one, or wavered in his fealty to a client. Mr. O'Connor knows his profession in its highest possible aspect, and woe betide the stubborn or unwilling witness who tries to thwart him in his endeavor to let the jury see the picture as he intends they should. In preparing for the defense of Jefferson Davis, the President of the Confederacy, he is said to have addicted himself to great study, as he was determined to subordinate all the learning and statesmanship possible to that great cause, and to make it the crowning professional effort of his life. The later matters in which he has been conspicuous have been the great *Jumel* will case, and his fiery letter upon the decision of the Court of Appeals reversing the sentences of Judge Noah Davis upon the ex-Tammany leader, William M. Tweed, a document which was received by the profession with great diversity of opinion.

In politics Mr. O'Connor was always a consistent democrat; and while he never held any office, he on one occasion ran for Assistant Alderman of the Sixth Ward, and although

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he persistently refused to allow the use of his name, when coaxed to accept a nomination for the Presidency he received twenty-two thousand for that high office. His views on the principles of government he has very recently expressed in a very able paper; while in purifying the city government of New York his best efforts have been exerted, and in all the walks of life as a professional man and a citizen he has ever set a high example of purity and patriotism, his adherence to that "beneficent institution" alone excepted.

Speaking of the democratic principle, in his *Essay on Democracy*, Mr. O'Connor eloquently and powerfully says: "A government based upon it can acknowledge no conflicting interests among the people to be favored or opposed. All its legitimate ends are accomplished when public safety and individual liberty are maintained. Restraining the turbulent and disorderly by a just administration of general laws, and, perhaps (1), making due provision for the impotent, it should leave all others in the quiet enjoyment of such social conditions as they may have created for themselves or derived from the ordinary incidents of life. In the main, it should be unfelt and unseen, or at least unperceived; the citizen should have no more vivid consciousness of the power which guards his civil rights, than of the agencies whence flow his physical health or content of mind. Where the voice of the people is actually sovereign this must ever be the fact, for it is an irresistible deduction of reason that the supreme will never can intentionally enact a law which is not required, or, in other words, lay upon its own freedom any needless restraint. Hence the axiom, that in a democracy every pos-

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itive regulation not actually indispensable to the public and general welfare, which restrains or even indirectly tends to restrain individual liberty in any degree, however slight, so far violates the spirit of the constitution. It is an infraction of popular rights, and may justly be denounced as the offspring of unlawful force or fraud."

Mr. O'Connor has always argued that human nature, under whatever form or name of government you adopt, is pretty much the same, and that those who administer the laws will act selfishly if sufficient opportunity be accorded to them; and he goes to the very root of the question in the following terse passage: "It is not through parties contending for control of the government that the benefits of democracy can be realized. The principle itself must be placed beyond the power of such parties. Permanent barriers, like those devised against monarchy, must be introduced, which shall absolutely restrain governmental agents—that is to say, the office-holders—from any action not indispensably necessary to the common weal. Public offices and employments must be thus rendered undesirable to the indolent and the avaricious. If this can be effected under any form, it is possible in a representative democracy."

Like every eminent man, there are innumerable stories told of O'Connor, all very characteristic, and developing extraordinarily the talent of severe sarcasm; but none enlightened by the rays of any very genial sympathy for the foibles or errors of mankind. His description of a bench of three judges to a youthful counsel was good: "The one on the left has intelligence and capacity; the one in the middle has experi-

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ence, learning, and capacity; and the one on the extreme right *greases his hair!*" The following anecdote illustrates at all events that he has not strictly adhered to the injunction "de mortuis nil nisi bonum," when a sharp thing could be said with good alliteration combined with it: A miserable, miserly wretch had died at the upper end of the island, a very Scrooge and Marley rolled into one, who did not hesitate to rob a client, or lie, to enrich himself. If he had been buying a farm to reduce its price, he would probably play upon the feelings of the seller by saying it was for a one-armed soldier. On the death of this scourge to the community some one asked Mr. O'Connor in what esteem the deceased was held, when he replied, "I do not know what they think of him in Hell, but I know what he was thought of in Harlem." Perhaps one of the best things he ever said was in reference to a somewhat pompous lawyer, Daniel Lord, Jr., who continued to affix the Junior to his name after the death of his father. "Why," says a lawyer, "does Lord continue to put the 'Junior' to his name?" "I do not know," replied O'Connor, "unless it be to distinguish him from the Lord Almighty."

Mr. O'Connor married late in life. It is generally a misfortune for a man of strong will to defer marriage until his habits are irrevocably fixed. It sometimes turns out a misfortune, indeed, when the contract is entered into in early life. The great jurist had his rough and rugged edges, and at his age, and with his Puritan rigor, no ocean of pleasantry could roll him about and smoothe his corners down. And so his married life was not more

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serene than his recluse old bachelor days. His gallantry was not manifest in matters connected with his household. He built a cottage at Lake George, but it remained unoccupied for some time. A friend of his saw the cottage, and remarked to Mr. O'Connor on the beauty of the location, the scenery, and view of the lake, and then asked when he would occupy it, and got for answer that when the Providence of God and the caprice of woman would permit him, he would occupy it.

Mr. O'Connor's early cases are reported in Cowen's, Hall's, and Wendell's Reports, and evince great nicety in pleading, skill in practice, and exactness of legal application. During his whole life there has been no slurring of whatever legal work he has undertaken, and the word "thorough" is entirely applicable to his greatest forensic efforts. In 1846, O'Connor became a member of the Constitutional Convention where he exhibited great foresight and ability as a statesman, and made himself felt on the floor of the Committee Room. He voted invariably against the colored franchise, doing so as a lawyer outside the question of philanthropy altogether. From his views then expressed he has probably never deviated in the slightest degree, while his opinions were only the forecast of the judgment delivered by some of the Judges in the Dred Scott case. His consistency in opposition to the claims of the colored race was very remarkable, particularly when contrasted with the conduct of many a member of his own political party. In 1848, he ran for lieutenant-governor upon the same ticket with General Cass; and in 1852, he was elector at large for

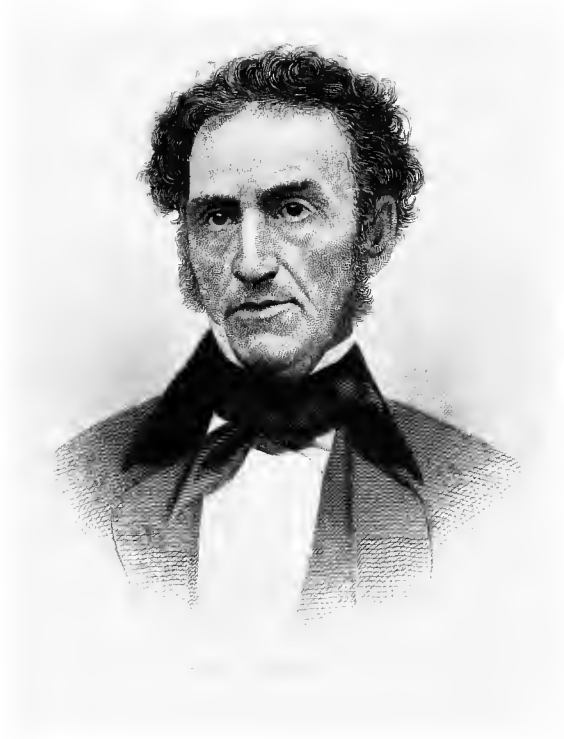
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General Pierce, who would have made him attorney-general, had not New York contributed General Marcy to the Cabinet. He was for a brief space Federal District Attorney. In 1850, he was employed by the party which sought to sustain the fugitive slave law and Mr. Webster's famous fifth of March speech. On that occasion O'Connor made a splendid address at Castle Garden, which raised him to the position of an idol in the North, whom the advocates of southern slavery positively worshipped, and during the whole struggle of the Civil War he never deviated in his sincere belief in the right of secession, and in the godlike sacredness of the "peculiar institution." To the grief of his millions of ardent admirers, and his entire circle of intimate friends, Charles O'Connor, at the end of the year 1875 became so entirely prostrated by some obscure disease of the stomach that his life was entirely despaired of; and the public and the press were for weeks awaiting his imminent dissolution. The reports of his physicians from his country mansion at Fort Washington were watched with eagerness by every reader, and the Bar and Bench of New York feared that they were about to lose one of the greatest living ornaments to their profession. Having always been a sincere Catholic, he was attended by the Cardinal Archbishop of New York, and received the last sacraments of his church. Perhaps that calmness and resignation which his faith brought him, gave a turn to his disease, or in the opinion of some, it may be looked upon as a remarkable triumph of mind over matter. Certain it is, however, that he has steadily recovered from the very jaws

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of death; and the public at large sincerely trust that his distinguished career may still be prolonged for many years. Mr. O'Connor's law offices in recent years have been in Brown Brother's Building, in Wall Street, where their plain and rigid surroundings betoken the character of an austere and learned jurist. As a bright example of purity and patriotism he as much adorns the legal profession, as by his vast acquirements and rare powers of eloquence; and by his narrow escape from death he has learned, and will be able to cherish in his remaining years, that when his end really does arrive it will be regarded as a national loss.

RUFUS CHOATE



B. Chouh

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PON an island rising to considerable elevation at its centre, and commanding a view of the open sea and neighboring villages, in an old homestead which had been in possession of the family for four generations, and more than a century, in the south-eastern part of the old town of Ipswich, Massachusetts, Rufus Choate was born on the 1st of October, 1799. He was the second son, and the fourth of six children, born to David Choate by his wife Miriam, whose maiden name was Foster, and who was a woman of strong sense and ready wit, cheerful, quiet, and dignified in manner. David Choate was a man held in high esteem for his unswerving integrity, his sound and independent judgment, his wisdom in council, and his rare intellectual qualities. The family was first represented in this country by John Choate, who took the oath of allegiance in 1667, and had spread itself widely in Essex county, where several of its members had attained considerable distinction. David Choate's pursuits seem to have been principally agricultural, but he must have been a well-informed man, as he is said to have written

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some articles in a Boston paper at the time of the ratification of the federal constitution, and on one occasion to have conducted a case in court, and won a verdict in the absence of his counsel.

The earliest passion of the young Rufus seems to have been for the sea, the murmur of which lulled him to sleep while the rage of the storm, the white sails in the harbor, and all stories of peril and adventure connected with it, fastened strongly on his imagination. His constitution was vigorous, and while diligent in the necessary labor of the farm, he could tire out almost all his competitors in activity and skill in sports. He possessed an intense love of reading, and before he was six years of age, had so thoroughly devoured the "Pilgrim's Progress" that he could rehearse it to his companions from memory. His tenacity of memory was, in fact, so remarkable, that, when at college, he would take a book into his bedroom, and looking over a chapter of it before retiring, would be able to repeat it accurately to his brother on waking in the morning. The village library of a few hundred volumes he had very nearly exhausted ere he was ten years old, and he read and re-read the Bible with especial thoughtfulness, being both an attentive and critical hearer of the minister, while he was possessed also of a quick sense of the ludicrous, and was in disposition of a uniform sweetness of temper. He began the study of Latin at ten, under Dr. Thomas Sewall—who afterwards married his eldest sister,—but by way of completing his preparation for college, he was sent in January, 1815, to the Academy at Hampton, New Hampshire, of which James Adams was then the principal, and sub-

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sequently entered the Freshman class in Dartmouth College in his sixteenth year. Of delicate frame, but singularly attractive in person and manner, with dark, curling hair, and a beautifully ingenuous countenance, his classmates have all combined in speaking of him in terms of eulogy. One of them says, "When Choate got up, after the first sentence or two, I had no doubt who was the first classical scholar among us, or who had the best command of English. I was on one side of the room and he on the other, and I remember, as if but yesterday, his fresh personal beauty and all the graceful charm of modest, deferential look and tone that accompanied the honeyed words."

During the time that Choate was at Dartmouth College, a long litigation was going on between the President and the Board of Trustees, in which the students took a lively interest, and it is more than probable that Rufus Choate's mind was by this circumstance turned to the law as a profession. Choate closed his college course in 1819 with the valedictory, and spent the next year in the responsible office of tutor of the college, in which he had such power over his class, and used his power with such consummate skill, with such natural adroitness, that they were enthusiastic in their esteem of his gifts and personal attachment to him. On leaving Dartmouth, he entered upon the study of his profession in the law school at Cambridge, presided over at that time by Chief Justice Parker and Asahel Stearns; and in 1821, entered the office of Mr. Wirt, then attorney-general, and just in the ripeness of his power and fame. In the following year, being deeply overcome by the death of his beloved

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brother, Washington, who had been his early playmate and fellow-student, he retired for awhile to the seclusion of Essex. After a time he entered his name in the office of Mr. Asa Andrews, of Ipswich, and subsequently continued his studies with Judge Cummins, a distinguished lawyer of Salem, and was finally admitted an attorney of the Court of Common Pleas, in September, 1823, being two years later enrolled an attorney of the Supreme Court. Mr. Choate first put up his sign at Salem; but feeling a natural modesty and self-distrust at entering into direct rivalry with the eminent lawyers who belonged to that distinguished bar, he removed to South Danvers. There he spent four or five years of those feelings of solicitude and hope which never come twice to a professional man. He had no particular immediate success, and at one time seriously entertained the idea of throwing up the profession, and seeking a living by some other means. During his short residence, however, he twice represented the town in the legislature, and for one year was a member of the Senate. While there, he became attached to, and was, in the year 1825, united to Helen Olcott, daughter of Mills Olcott, Esq., of Hanover, New Hampshire, a gentleman of remarkable sagacity and high character. This congenial alliance stimulated him to fresh labor, and he shrunk from nothing that was necessary to bring to completion whatever he undertook. In a famous dog case at Beverly, it was said that "he treated the dog as though he were a lion or an elephant; and the crabbed old squire with the compliment and consideration of a chief justice." So punctilious was he as to the most exact fidelity to a client, that a story

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is told of his having gone, on a stormy night, many miles on horseback to make the will of a dying man, but thinking when he had returned home and had gone to bed, that he had made an omission which might cause the testator's intentions to be misunderstood, he re-dressed himself, and in the thick of the storm rode back to make a codicil for his dying client. His fame at length was fast spreading, his powerful and impassioned eloquence, his assiduity, fidelity, and modesty all tending to ensure success to him. He made his first essay in Salem, in a case known as the "Mumford case," and every one was filled with admiration of his power, and he became so sought after, that he at length resolved to take up his abode, and accordingly removed to Salem in 1828, where he soon became the leading counsel in criminal practice. He possessed a great power of laughable exaggeration, and of presenting things in a ludicrous aspect, which was very effective in attracting attention; but although generally engaged in criminal business, he devoted himself greatly to the study of the higher branches of law and to the profoundest literary studies.

In 1830, Mr. Choate was nominated by the national republicans of Essex as representative to Congress, and although strong influences were brought to bear against him, he was chosen, after an honorable and exciting contest, by a majority of more than five hundred votes over all opposing candidates. He was no sooner elected than he laid out a plan of study which should best fit him honorably to represent his constituents. He took his seat in Congress in December, 1831, and working indefatigably, yet unobtrusively, he soon acquired

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from all parties an involuntary respect. Choate had a nervous dread of thunder, and on the occasion of his maiden speech before he had half finished, a dark thunder cloud burst over the capitol. Choate's face grew pale, and his whole frame tremulous with excitement. His hearers caught the emotion, and listened the more intently amid the rushing wind and rain, the lurid light, and rattling peals of thunder; the upturned faces lighted from above gazing at the speaker, making it a scene not easily to be forgotten. Members of all parties rushed to offer their congratulations, and his position as a parliamentary orator was established. In April, 1833, Mr. Choate was returned again with an increased majority, and in the following year made a very memorable speech, of which "old Ben Hardin," of Kentucky, says, "I took my hat to leave, lingering a moment just to notice the tone of his voice and the manner of his speech, but that moment was fatal to my resolution. I became charmed by the music of his voice, and was captivated by the power of his eloquence, and found myself wholly unable to move till the last word of his beautiful speech had been uttered." At the close of that session, Mr. Choate resigned his place in Congress, having determined to remove to Boston. Shortly after his arrival there, he delivered one of the most fascinating of his lectures, "The Romance of the Sea."

In 1841, Mr. Webster having accepted the office of Secretary of State under General Harrison, it became necessary for the Legislature of Massachusetts to elect another Senator to fill his place. After giving at first a decided refusal, Choate was at length induced to accept the vacant seat. Before en-

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tering the Senate, however, he was called upon to deliver a eulogium at Faneuil Hall upon the lamented President, General Harrison, who died after holding office for one month. His career in the Senate is chiefly remarkable for his collision with Mr. Clay, and some very able speeches on the fiscal Bank Bill, remedial justice in the United States courts, and on the North Eastern Boundary question. The twenty-eighth Congress met at Washington on the 4th of December, 1843, and Mr. Choate removed to the capitol for the winter. In that month he came to New York to deliver his memorable address on "The Pilgrims, their age and their acts." "We have," he said, in this lecture, "a specific duty to perform. We would speak of certain valiant, good, and peculiar men—our fathers. We would wipe the dust from a few old, plain, noble urns. We would shun husky disquisitions, irrelevant novelties, and small display, would rather scan merely the forms and lineaments of the heroic dead—forms and features which the grave has not changed—over which the grave has no power—robed with the vestments and radiant with the hues of an assured immortality." Touching upon Switzerland, he said on that occasion, "In the giant hand of guardian mountains, on the banks of a lake, lovelier than a dream of the Fairy-land, in a valley which might seem hollowed out to enclose the last home of liberty, there smiled an independent, peaceful law-abiding, well governed, and prosperous commonwealth. There was a state without king or nobles, there was a church without a bishop, there was a people governed by grave magistrates, which it had elected, and equal laws, which it had framed." The address

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was received with the greatest delight and enthusiasm, and some of its phrases were caught up and became the burden of popular song. On leaving the Senate, Choate bade farewell, for a time, to politics, and then argued in the courts some of his most celebrated cases, particularly that of the boundary between Massachusetts and Rhode Island, and the Phillip's will case. At this period he had care of a professorship in the Cambridge Law School, and also of a seat on the bench of the Supreme Court. In March, 1846, he made his celebrated defense of Albert J. Tirrell for murder. In his exordium, alluding to the certainty that death would follow the verdict of guilty, he said, "Every juror, when he puts into the urn the verdict of guilty, says 'let him die;'" and in his solemn and beautiful peroration he reiterated the idea by saying, "Under the wise law of old Rome it was the custom to bestow a civic wreath on him who would save the life of a citizen. Do your duty this day, gentlemen, and you too may deserve the civic crown." The verdict was "not guilty," but Choate had again to defend Terrill on an indictment for arson, and he then concluded his address to the jury in these words: "There is a day, gentlemen, when all these things will be known. When the great day has arrived, and the books are opened, it will then be known. But, gentlemen, let not your decision be then declared in the face of the world to be a judicial murder."

In March, 1849, he delivered before the Mercantile Library Association the closing lecture of the winter course, entitled, "Thoughts on the New England Puritans," drawing a beau-

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tiful comparison between the public life of that day and his own. In the summer of 1850, he gratified a long-cherished wish by a voyage to Europe, and visited England, Belgium, France, a part of Germany, and Switzerland, being absent about three months. He was cordially received by the aristocracy of England, and writes to his wife some severe comments on the administration of justice. He heard the trial of Pate, for striking the Queen, and says, "The whole trial smacked of a judiciary whose members, bar and bench, expect promotion from the Crown. Their doctrine of insanity is scandalous. Their treatment of medical evidence and of the informations of that science, scandalous." He says, "the wig is deadly;" and Mr. Cockburn (now Lord Chief Justice), occasionally hesitated for a word. On his return from abroad he received from Governor Clifford the offer of the Attorney Generalship of the State, which he accepted, being the only judicial office he ever held. Some passages of surpassing eloquence occur in Mr. Choate's address before the Beta Kappa, of the University of Vermont, on the "intervention of the new world in the affairs of the old," delivered in August, 1852. Alluding to the visit of Kossuth to this country, he said, "To his eye, who observes the present of our own country, and of the eye heedfully-looking before and after, every day offers some incident which first awakens a vivid emotion, and then teaches some great duty. Contemplate, then, a single one of such a class of incidents; give room to the emotion it stirs; gather up the lessons of which it is full. On the 5th of December last there came to this land a man of alien blood, of foreign

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and unfamiliar habits, costume and accents, yet the most eloquent of speech according to his mode—the most eloquent in his history and circumstances—the most eloquent in his mission and topics whom the world has for many ages seen; and began among us a brief sojourn—began, say rather, a brief and strange eventful pilgrimage, which is just now concluded. Imperfect in his mastery of our tongue, bred in a school of taste and general culture, with which our Anglo-Saxon training has little affinity and little sympathy; the representative and impersonation, though not, I believe, the native child of a race from the East, planted some centuries ago in Europe, but Oriental still as ever in all but Christianity—the pleader of a cause in which we might seem to be as little concerned as in the story of the love of Pelops, or that of Troy divine, coming before us *even* such—that silvery voice, that sad abstracted eye, before which one image seemed alone to hover—one procession to be passing—the fallen Hungary—the ‘unnamed demigods,’ her thousands of devoted sons—that earnest and full soul laboring with one emotion, has held thousands and thousands of all degrees of susceptibility—the coldness and self control of the East—the more spontaneous sympathies of the West—the masses in numbers without number—women—scholars—our greatest names in civil places—by the seashore—in banquet hall—in halls of legislation—among the memories of Bunker Hill—everywhere—he has held all with a charm as absolute as that with which the ancient mariner kept back the bridal guests after the music of the marriage feast had begun. The tribute of tears and applaudings, the tri-

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bute of sympathy and of thoughts too deep for applaudings, too deep for tears, have attested his sway. For the first time since the transcendant genius of Demosthenes strove with the downward age of Greece—or since the prophets of Israel announced each tone of the hymn grander and sadder than before—the successive footfalls of the approaching Assyrian beneath whose spear the law should cease—and the vision be seen no more—our ears, our hearts, have drank the sweetest, most mournful, most awful of the words which man may ever utter or may ever hear—the eloquence of an expiring nation.” At the Whig convention which met for the nomination of a candidate for the Presidency, at Baltimore, on the 16th of June, 1852, Mr. Choate made a speech in which the following beautiful passages occur. “Extremists denounce all compromises ever. Alas! do they remember that such is the condition of humanity that the noblest politics are but a compromise, an approximation, a type, a shadow of good things, the buying of great blessings at great prices? Do they forget that the Union is a compromise; the constitution, social life; that the harmony of the universe is but the music of compromise by which the antagonisms of the infinite Nature are composed and reconciled? Let him who doubts, if such there be, whether it were wise to press these measures, look back and recall with what instantaneous and mighty charm they calmed the madness and anxiety of the hour! How every countenance everywhere brightened and elevated itself! How in a moment, the interrupted and parted currents of fraternal feeling reunited! Sir, the people came together again, as

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when in the old Roman history, the tribes descended from the mount of secession, the great compromise of that constitution achieved and flowed together behind the eagle into one mighty host of reconciled races for the conquest of the world." . . . "I know indeed how vain it is to seek to bind a future generation or even a future day. I see the great stream of progress passing by, on which all things of earth are moving. I listen awestruck to the voice of its rushing. Let all who have eyes to see and ears to hear, see and hear also. Still, I believe something may be done at favorable junctures to shape, color, confirm even, so capricious and so mighty a thing as public opinion. This is the theory upon which written constitutions are constructed. Why, such toil as these, unless in the belief that you may and should seek to embody and fix an important agreement in the national mind, may for a little space moor the ship against the stream, and insure that when she is swept from that mooring, she may not be instantly shattered, but float with some safety, and under some control to the ocean." Up to the year 1849, notwithstanding his large business, Mr. Choate had been too careless both in charges and collections to realize an adequate return for his services, and seemed to be the only person who placed a low estimate on his own labors. He was generous to a fault, and of the many who came to borrow of him, none went empty away, if he were not himself pressed for money. The largest fee he ever received was two thousand five hundred dollars, and for eleven years his average income with his practice was not more than eighteen thousand dollars, while

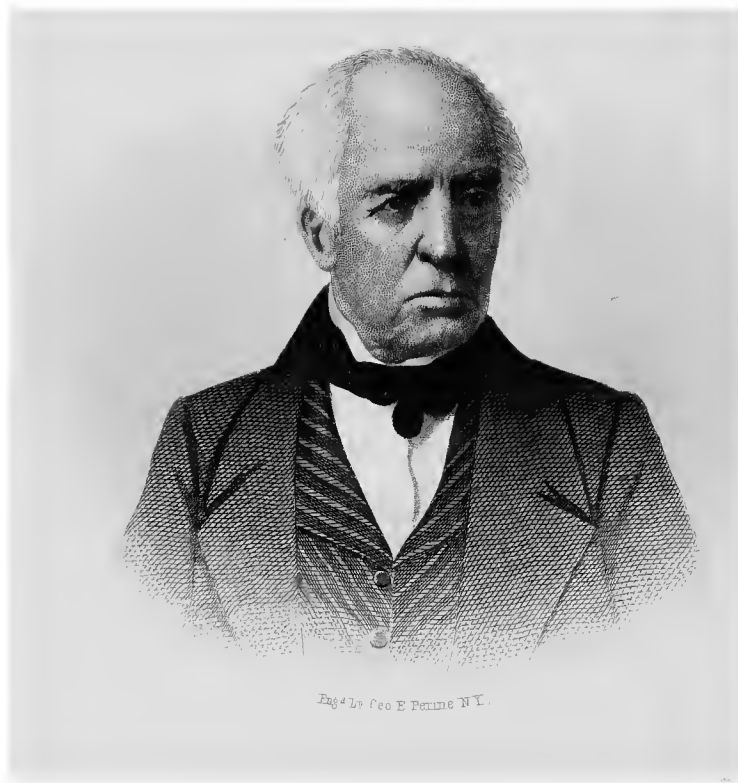
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in no year did it amount to more than twenty thousand dollars. Never assuming pre-eminence or standing upon his dignity, he was on the kindest and most familiar terms with his brethren at the Bar, and his intercourse with, and instructions to the junior members of the profession were ever of the kindest. The key to Mr. Choate's public life, especially his later life, lay in his strong American feeling and love for the Union. As a statesman his ideas and policy had nothing narrow or sectional. They embraced the whole country and every part of it, and were identified with whatever in patriotism is most generous and unselfish. His position at the latter end of his life was such as any one might envy. He stood at the head of the New England Bar, and his well earned reputation was unsurpassed by any other advocate in the country, while in the profession he had won the love as well as admiration of his brethren. He had shown some slight symptoms of failing health on his return from Europe, but it was not until 1859 that his friends were seriously alarmed. On the 29th of March he made his last argument before the Bench, and found himself unequal to proceed, and only continued attendance at his office till the 16th of April. His disease was a very obscure one, inducing constant languor, and his doctors rather encouraged his taking a voyage. After three unsuccessful attempts at starting in other vessels, he at length went on board the *Europa*, on the 29th of June, and was landed at Halifax, more dead than alive. Getting into apartments which overlooked the sea, he was able to indulge in his old habitual love of it without raising his head from his pillows. He

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never left the bed to which he was taken, and passed calmly to the regions of the blessed on the morning of the 13th of July. The sad tidings were at once spread by telegraph all over the United States and evoked the deepest sorrow among his fellow countrymen, while from the Governor, Lord Mulgrave, downwards, all had proffered him all that their resources could afford; and his demise cast a deep gloom over the entire community. Under the presidency of the venerable Chief Justice Sir Brenton Halliburton, the Bench and Bar of Canada held a meeting to express their sympathy and respect. Nowhere did a deeper feeling prevail than among the members of the Essex Bar, with whom he began and closed his labors, and in Boston where his greatest legal triumphs were achieved. Everywhere the death of this great, good, and gifted man was regarded as a personal loss. The forensic, legislative and literary annals of his country have never been adorned by a lawyer of greater attainments, a more brilliant orator, a purer Christian, a nobler patriot, or a more refined and accomplished scholar, than Rufus Choate.

JAMES KENT



CHANCELLOR KENT.

James Cockcroft & Co. New York.

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THE name of the great Chancellor Kent is especially dear to American lawyers, and the world-wide fame which his "Commentaries" have obtained renders the life of this remarkably distinguished legist and diligent student of precedents, peculiarly interesting to the profession. Reared upon the banks of the Croton river, it may truthfully be said that his legal acumen and patient research have done at least an equal service to enlighten and aid those who have followed him in succeeding generations at the bar, as the waters of the beautiful river, where the paternal mansion was situated, have in the supply of the Empire City of the United States with that pure and necessary element which has contributed to her salubrity and cleanliness. James Kent was born in Fredericks, Putnam county, New York, on the 31st of July, 1763. From the earliest period he exhibited singular power of mental application, and his father being a lawyer, his mind naturally turned to legal questions long before he made choice of a profession; while at the same time he possessed an intense love of nature, and throughout life

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exhibited a spirit of true simplicity, which in his later years might be viewed as almost infantine. His father had a large farm on the banks of the Croton river, the house in which he was reared having an especially elevated, commanding, and beautiful location; and he was wont to allude to the intense delight with which he would stand at the library window and watch the play of the waters of the Union Park fountains. He entered the freshman class at Yale in the year 1777, but his studies there were interrupted in his Sophomore year in consequence of the occupation of the British, when the college was for a time closed. It was just at that time, while his college pursuits were so unfortunately interrupted by the great national struggle for liberty, and his mind was athirst for that varied knowledge which he pursued with unceasing industry, that he fell across a copy of Blackstone's Commentaries. His close study of this great legal work determined him in the choice of a profession. He took his degree in 1781, and entered the office of Mr. Egbert Benson, of Poughkeepsie, where he pursued his studies, and made himself thoroughly acquainted with the routine of legal business. In January, 1785, he was admitted as an attorney, and commenced practice in his native village of Fredericks, a location which he soon found to be too limited, and uncongenial to his great legal aspirations. He then returned to Poughkeepsie and entered into partnership with Mr. Gilbert Livingston. Here he fell in love with, and married Miss Elizabeth Binley; but the married state appears only to have increased his ambition and desire thoroughly to master those subjects, a complete knowledge of which could raise him in the educational scale,

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and enable him to "climb the steep where fame's proud temple shines afar." He was dissatisfied with an education which had been so interrupted, and, to his own mind, partial. It was true that at Yale College he had gone as far in Greek as the New Testament, and in Latin had become partially acquainted with Virgil, Horace, and Cicero, but such steps by no means satisfied him. He therefore put himself upon a system of the closest study, to which he rigidly adhered at all sacrifices. Rising very early, he devoted himself for two hours to Greek and two hours to Latin before breakfast, and after following his profession at the ordinary hours of legal labor, he devoted two hours after dinner daily to the French language, and his evenings to the close study of the English classics. In this way he rapidly advanced himself to a comprehensive and solid knowledge of subjects in which he had previously felt a deficiency, and he continued this process of storing his mind until he was elevated to the bench as Judge of the Supreme Court. In 1790 and 1792 he was elected to the State Assembly, and in 1793 conducted with great talent the examination of witnesses in the charge of the destruction of the votes cast in Oswego county for the election of Governor of the State. This service was afterwards remembered and rewarded by John Jay when he became Governor. In April, 1793, Kent was nominated for Congress in Dutchess county, but was defeated. He then removed to New York. Here he seemed to make but little progress in the important point of making money by his learning and professional experience. Having but a small private patrimony, he found his means became soon straitened, and were quite inadequate

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to his support. However, in December of the same year, he was appointed Professor in Columbia College, and his introductory lecture was so highly appreciated that it was published by and at the expense of the trustees. In the year 1795 he himself published three others subsequently delivered by him in 1795, which were preliminary to a course on common law. He also delivered a review on the government of the United States, and delivered in the same year an address on arts and manufactures, which was published by the State Society. In 1798 his lectures being but thinly attended on account of the paucity of the students, he resigned his professorship at Columbia College; but this was fully compensated by his being appointed in the same year a Judge of the Supreme Court, by Governor Jay. Previously to this, however, he had in 1797 been made Recorder of New York and Master in Chancery. When raised to the Bench of the Supreme Court he was the first to introduce the practice of writing written decisions, a course which has since been universally followed, and which has tended greatly to increase the dignity of the Bench, and which his associates at the time approved and followed. In the year 1804 he was appointed Chief Justice, and so continued for ten years, until in 1814 he received the appointment of Chancellor. He will ever be associated with this title, and the manner in which he discharged the duties of the office rendered him more than ever distinguished. Of his conduct in that capacity Judge Duer said, "he accomplished during his tenure of office changes in the administration of equity law so extensive and entire that, with the exception of Lord Nottingham, they have no parallel in the history of the law." Kent

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retained the chancellorship until 1823, when, being sixty years of age, he became incapacitated by law from its further retention. In the same year, however, a vacancy occurred in the Bench of the Supreme Court of the United States, and Kent was pointed to on the ground of his profound legal attainments as the man best calculated to fill it. The distinguished Wirt, whose fervid and soul-stirring eloquence had raised him to the foremost place amongst American orators, and who was at that time Attorney-General, warmly supported his nomination, and wrote in the following terms of the Chancellor to President Monroe: "Kent," he said, "holds so lofty a stand everywhere for matchless intellect and learning, spotless purity and high-minded honor and patriotism, that I firmly believe the nation at large would approve and applaud the appointment." And to Kent's personal character, the refined and elegantly-expressive Wirt bore the following testimony: "His conversation and manners are indicative of a simplicity almost infantine, of the most perfect kindness and suavity of disposition, and such I understand has always been his character. Judging from all I have seen of him, and all I have ever heard, he is as benignant and patriotic as he is admitted on all hands to be great and enlightened." Seeing the necessity of a good law school for the enlargement of the arena of legal knowledge and the more perfect training of students in that profession, Kent eventually removed to Albany, where he had resided previously to his appointment as Chancellor of New York. He then again a second time accepted the office of Professor at Columbia College. It was then that the world began to reap the benefit of his deep legal research, and of the

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accident which had directed him to study Blackstone's Commentaries when Yale College was closed by the occupation of the British, and the study of that profound English legist had determined him in the choice of the bar as a profession. As the fruits of his learned leisure there came forth, at the solicitation of endless personal friends who had reason to esteem him as a perfect encyclopædia of cases, decisions, and references, the first volume of that universally-admitted standard work, "Kent's Commentaries," which has immortalized his name. The first volume was published in the year 1826, and at the commencement of the work he only contemplated a second; but he soon found that to do it justice the great undertaking must necessarily spread itself out, and the fourth and last volume issued from the press in the year 1830. It at once took a high place in legal literature, and was universally received as a legal text-book, as by first exhausting each topic of common law, and then introducing the various changes made in it, it has been made adaptable to each State. Chancellor Kent had, however, a mode of working his great publication, which would scarcely be acceptable to modern publishers. So strange indeed was it, that the "Commentaries" might almost be classed as a work printed for private circulation. He held the copyright himself, and as the copies were printed he stored them in his own house, when they were disposed of as separately ordered by the booksellers. This peculiar method of disposing of his "Commentaries" at length, however, had necessarily to be abandoned. All the reports of Kent's decisions, whether in the capacity of Chief Justice of the Supreme Court, or in that of Chancellor, evidence his great and collected power of

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thought, his unbounded knowledge of legal precedents, and bear indubitable testimony to his superior style and ability as a writer. From the period of his retirement from the Chancellorship, while still continuing his practice as an unrivalled chamber lawyer, he was enabled to turn his attention more completely to those elegant and professionally useful addresses which he now periodically delivered. His discourses delivered in 1828 before the New York Society, in 1831 before the "Phi Beta Kappa," and in 1836 before the Law Association of New York, are all memorable specimens of his learning and research. In 1840, he complied with the request of the Mercantile Library Association, and delivered before its members a course of readings which afforded great instruction, putting before them an ample field of study and a novel and inexhaustible scope for the exercise of their imagination. That a lawyer and judge, who had rendered such grave and solemn decisions, should be so fully capable of refined and lighter thought, and positive humor, is not often found to be the case, yet, in the instance of Kent, even in his most serious addresses this is found strikingly apparent. On what may be called the rule in Shelley's case superseded, he has the following elegant passage: "The juridical scholar in dwelling upon what his great master Coke has bestowed some portion of the gladsome light of jurisprudence, will scarcely be able to withhold an involuntary sigh, as he casts a retrospective glance over the piles of learning devoted to destruction by an edict as sweeping and unrelenting as the torch of Omar. He must bid adieu forever to the renowned discussions in Shelley's case, which were so vehement and so protracted as

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to arouse the sceptre of the haughty Elizabeth. He may equally take leave of the multiplied specimens of professional logic, skilful criticism, and refined distinctions, which pervade the cases in law and equity from those of Shelley downwards, to the direct collisions between the courts of law and equity, in the time of Lord Hardwicke. He will have no more concern with the powerful and animated discussions in *Perrin v. Blake*, which awakened all that was noble and illustrious in talent and endowment in every precinct of Westminster Hall. He will have occasion no longer in pursuit of the learning in that case to tread the clear and bright paths illuminated by Sir William Blackstone, or to study and admire the spirited and ingenious dissertations of Hargrave, the comprehensive and learned disquisitions of Fearn, the acute and analytical essay of Preston, the neat and orderly abridgment of Cruise, and the severe and piercing criticism of Reeve. What I have therefore written on this subject may be considered, so far as my native state is concerned, as a humble monument to the memory of departed learning." It may be doubted whether real eloquence was ever so much combined with profound erudition, on a dry legal subject, as in the above passage from the great Chancellor. In one of his addresses, alluding to the New York convention, held at Poughkeepsie in 1738 for the adoption of the federal constitution, he gives the following interesting account of his presence on that memorable occasion. He says "the intense interest with which the meeting of the convention was anticipated and regarded, can hardly be conceived, much less described. I then resided in that village, and was enabled and

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induced to attend the convention as a spectator, daily and steadily during the entire six weeks of its session, and I was of course an ear and eye witness of everything of a public nature which was done." The principal speakers on this great occasion must all have possessed great interest to the mind of the future Chancellor, who was then twenty-five years of age, and had been three years called to the Bar. Those who were on behalf of the adoption of the Constitution were Jay (then Secretary for Foreign Affairs), Chancellor Livingston, Mr. Duane (Mayor of New York), Mr. Harrison, and Col. Hamilton. On the other side, among those who were opposed to its adoption without important amendments, were Mr. George Clinton (Governor of the State), Mr. Lansing (afterwards Chancellor), Mr. Jones (afterwards Recorder), John Williams of Washington county, Gilbert Livingston and Melancton Smith, delegates from Dutchess. Kent had no difficulty in deciding on which side lay the superiority of debate, and speaks in high commendation of the dignity, candor, and strength of Jay, the polished address and elegant erudition of Chancellor Livingston, the sagacity, and exhaustive researches of Hamilton, all which were met with equal pretensions, simplicity, and earnestness on the other side by the grand sense of Clinton, the sound sense of Jones, the profound deductions of Lansing, and the metaphysical mind and embarrassing subtleties of Smith. Among them all, Kent gave the undoubted palm to Hamilton, who maintained an unquestioned ascendancy. The topics of discussion were, first, the importance of the union, the defects of the confederation, and the just principles of representation. Secondly, representative tenure and sta-

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bility of senate; and, thirdly, the power of taxation and the residuary rights of the states. Of the principal author of the Federalist, Kent says he generally spoke with great earnestness and energy, and with considerable, and sometimes vehement, gesture. His language was clear, nervous, and classical. He went to the foundation and reason of every doctrine which he examined, and brought to the debate a mind richly adorned with all the learning that was applicable. His candor was magnanimous, and rose to a level with his talents. His temper was spirited, but courteous, amiable, and generous, and he frequently made urgent and particular appeals to the good sense and patriotism of the assembly, and painted vividly the difficulties and dangers of the crisis, in order to prepare their minds for a favorable reception of the constitution. In his opening speech Hamilton preliminarily observed, that it was of the utmost importance that the convention should be strongly impressed with the necessity of the union of the states. If they could be entirely satisfied of that great truth, their minds would then be better prepared to admit the necessity of a government of simple organization and powers with the scheme of the one before them, to uphold and preserve that union. It was like the case of the doctrine of the immortality of the soul; and doubts on that subject were, he said, one great cause of modern infidelity, for if men could be thoroughly convinced that they had within them immaterial and immortal spirits, their minds would be prepared for the reception of Christian truth. After pointing out the radical defects of the articles of confederation and vindicating the popular basis of the proposed system, he

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declared his most serious conviction that the latter was a wise and genuine specimen of a representative republic, and he hoped and trusted that we should find in it an effectual cure for our actual distresses, and that it would prove an eminent blessing to us and to our posterity. He concluded his first great speech with the patriot's prayer, "Oh, save my country, Heaven," in allusion to the brave Cobham, who, his ruling spirit strong in death, uttered the same words. His two speeches on the organization, powers, and stability of the senate, were regarded at the time by the best judges as the noblest specimens which the debates in that or in any other assembly ever afforded of the talent and wisdom of a statesman. They were delivered with a strong desire to put down a most mischievous and pernicious proposition to amend the Constitution, and which was that no person should be eligible to the senate for more than six years in any term of twelve, and then they should at all times be subject to recall by the State Legislature, and to the substitution of others. Mr. Hamilton on that occasion took broad views of the nature of man, his passions, pursuits, interests, prejudice, duties, and he drew his deductions from the design and necessity of government, the settled principle of policy, and the history and melancholy infirmities of all free, and especially of all federal, governments, ancient and modern. Instability, a fluctuating policy, and corrupt and vindictive factions were found in the history of most republican systems, and their natural tendency was to weaken the sanctity of contracts, lessen the security of property, destroy a proud and just sense of national honor, and finally to forfeit the respect and confidence of the rest

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of mankind. He contended, therefore, that in all just policy we ought not to hesitate to infuse a principle of stability into our national government by the creation of a senate to be comparatively small in the number of its members, and to have them chosen for considerable periods of time, so as to inspire them with a feeling of independence and a lively sense of character in the due discharge of their trusts. By twelve members going over from the anti-federal party, a sufficient majority was constituted to enable the constitution, as proposed, to be unconditionally ratified. The great chancellor always looked back with the greatest pleasure upon his presence upon that most important occasion, and thus expressed himself of the twelve yielding members of the conference: "I have always considered the members who made this memorable and unbought sacrifice of error, prejudice, and party discipline, on the altar of patriotism and their country's welfare, as entitled to the highest commendation."

The profound respect entertained by Chancellor Kent for his old master, President Ezra Styles, of Hartford, was very remarkable. In a review of Dr. Styles's great work on the history of the judges who tried King Charles the First, Kent says: "This work contains proof that the author's devotion to civil and religious liberty carried him forward to some hasty conclusions, in like manner as his fondness for antiquarian research tended to lead his mind to credulous excesses. The volume contains a vindication of the resistance of the long parliament to Charles the First, and of the judicature, trial, and condemnation of that monarch. Here he rises into a theme of the loftiest import, and describes it with his usual boldness, fervor,

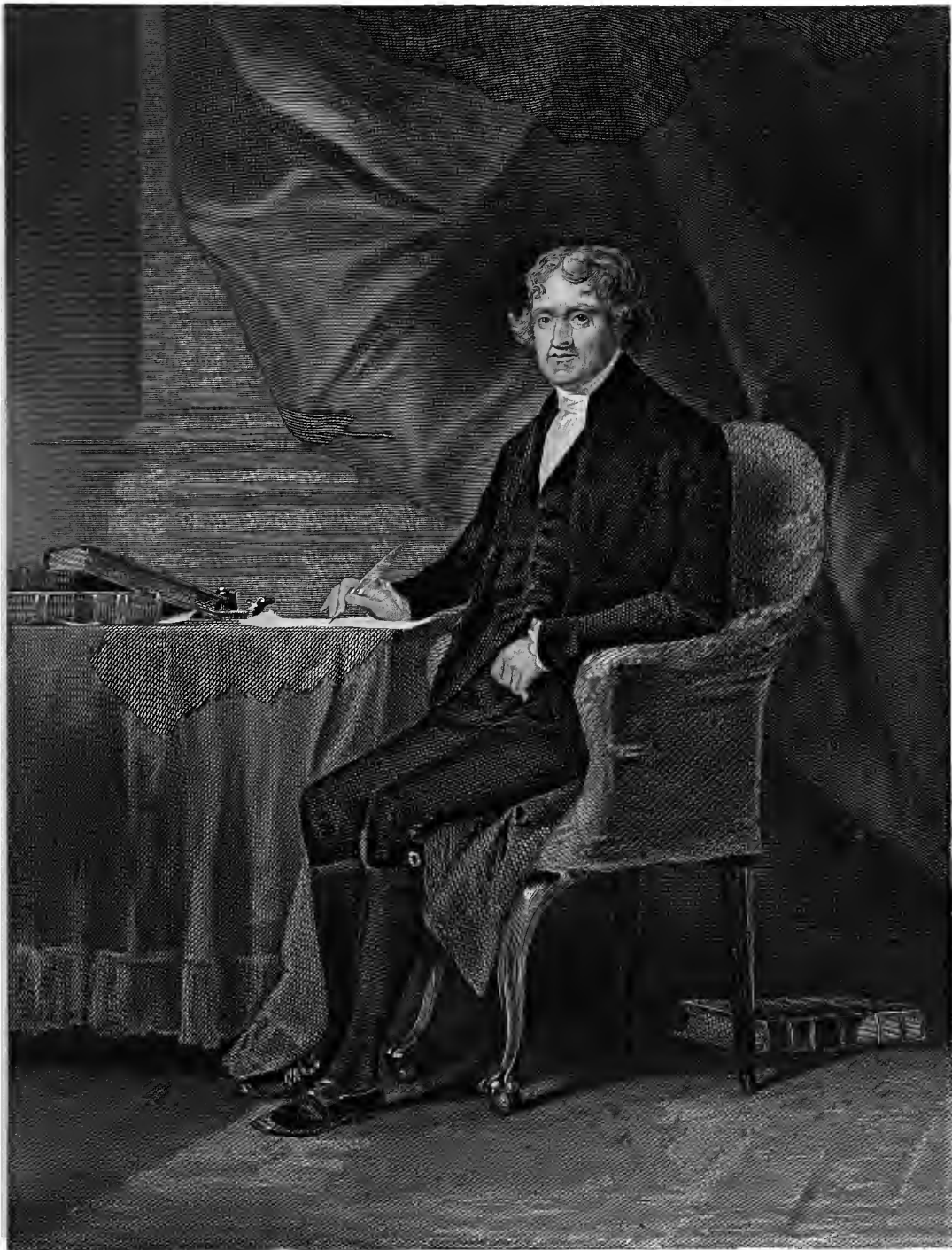
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acuteness, and copiousness of erudition. He takes occasion to condemn all hereditary orders in government as being incompatible with public virtue and security, and he was of opinion that monarchy and aristocracy, with their exclusive political appendages, were going fast into discredit and disuse under the influence of more just and enlightened notions of the natural equalities and liberties of mankind. President Styles' zeal for civil and religious liberty was kindled at the altar of the England and New England Puritans, and was animated and vivid. A more constant and devoted friend to the revolution and independence of this country never existed. He anticipated it as early as the year 1760, and his whole soul was enlisted in favor of every measure which led on gradually to the formation and establishment of the American Union. The frequent appeals he was accustomed to make to the heads and hearts of his pupils concerning the slippery paths of youth, the grave duties of life, and the perils and hopes and honors and destiny of our country, will never be forgotten by those who heard them, and especially when he came to touch, as he often did, with a master's hand and a prophet's fire, on the bright vision of the future prosperity and splendor of the United States. Take him for all in all, this extraordinary man was undoubtedly one of the purest and most gifted of his age."

Among the many writings of Chancellor Kent, there are some very interesting papers upon the treatment of the North American Indian tribes, in which the great jurist takes very statesmanlike ground, and insists upon the national duty of subjugating and civilizing those savage races. The Chancel-

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lor held that it was the design of the Creator himself that barbarism should be made to give way to the progress of a higher civilization. The constant and temperate use of his faculties throughout life preserved their energy to a remarkable extent in his old age. He died on the 4th of December, 1847, in his eighty-fifth year, leaving a character as remarkable for its simplicity, purity, and amiability, as for the highest judicial acquirements.

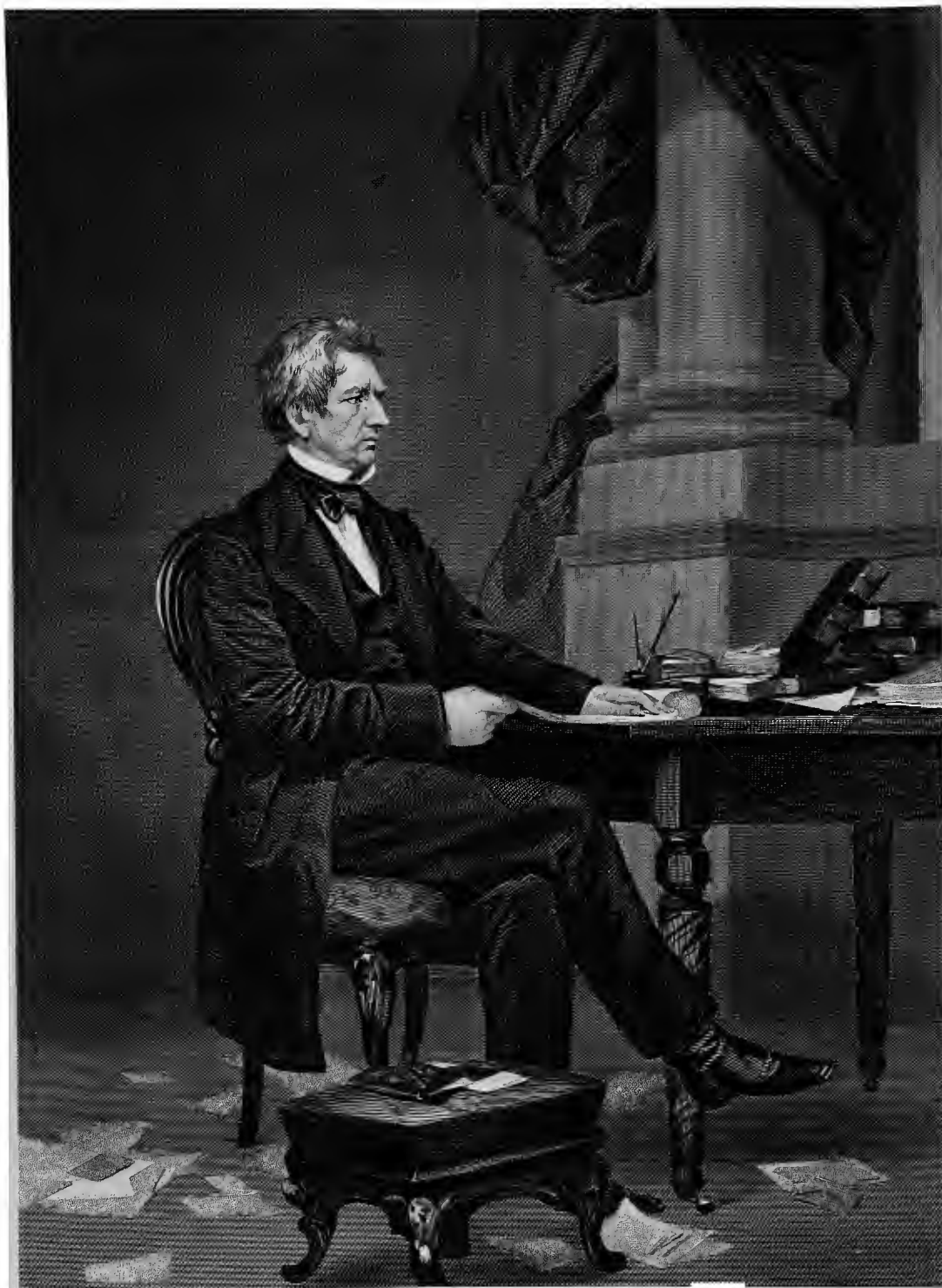


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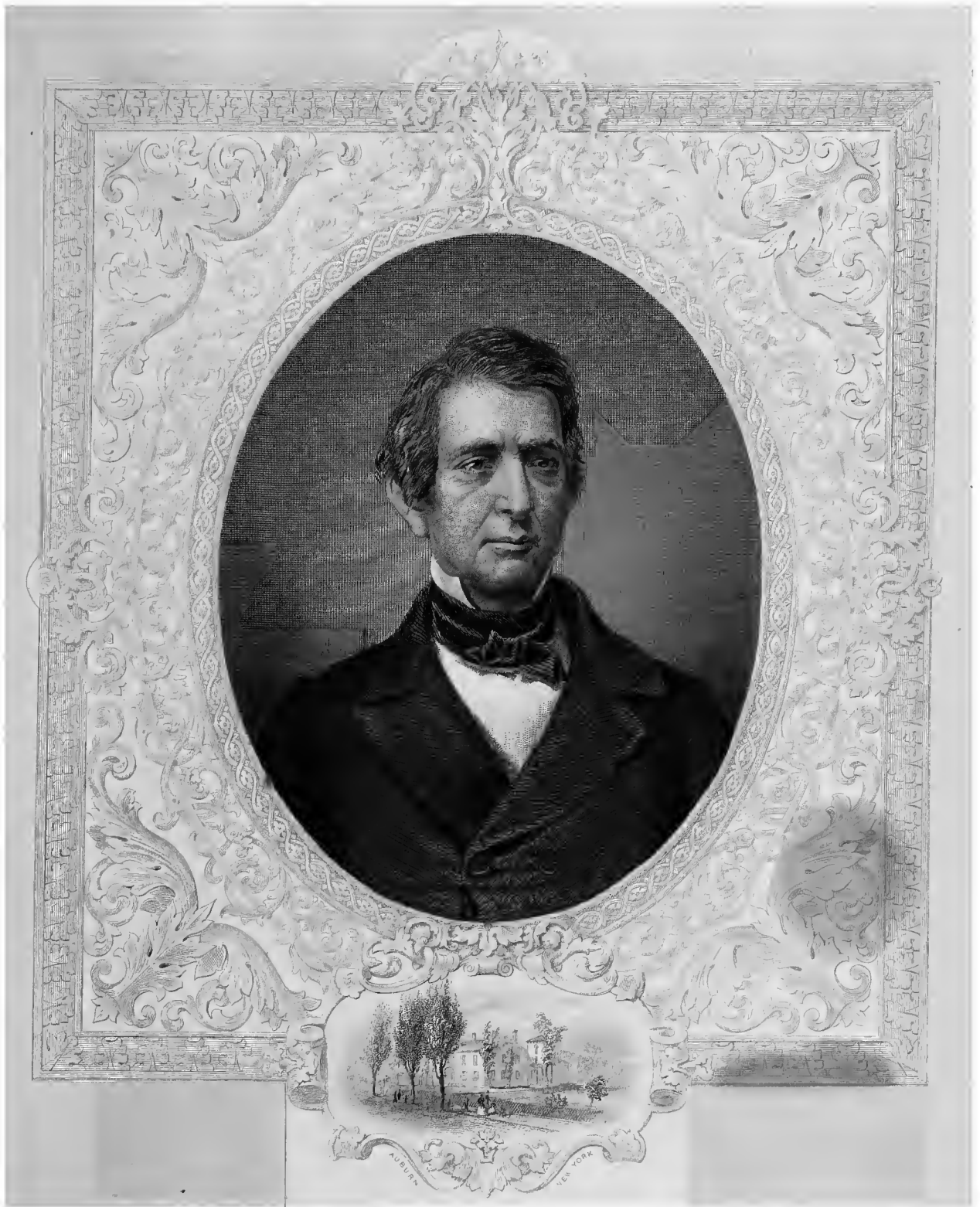


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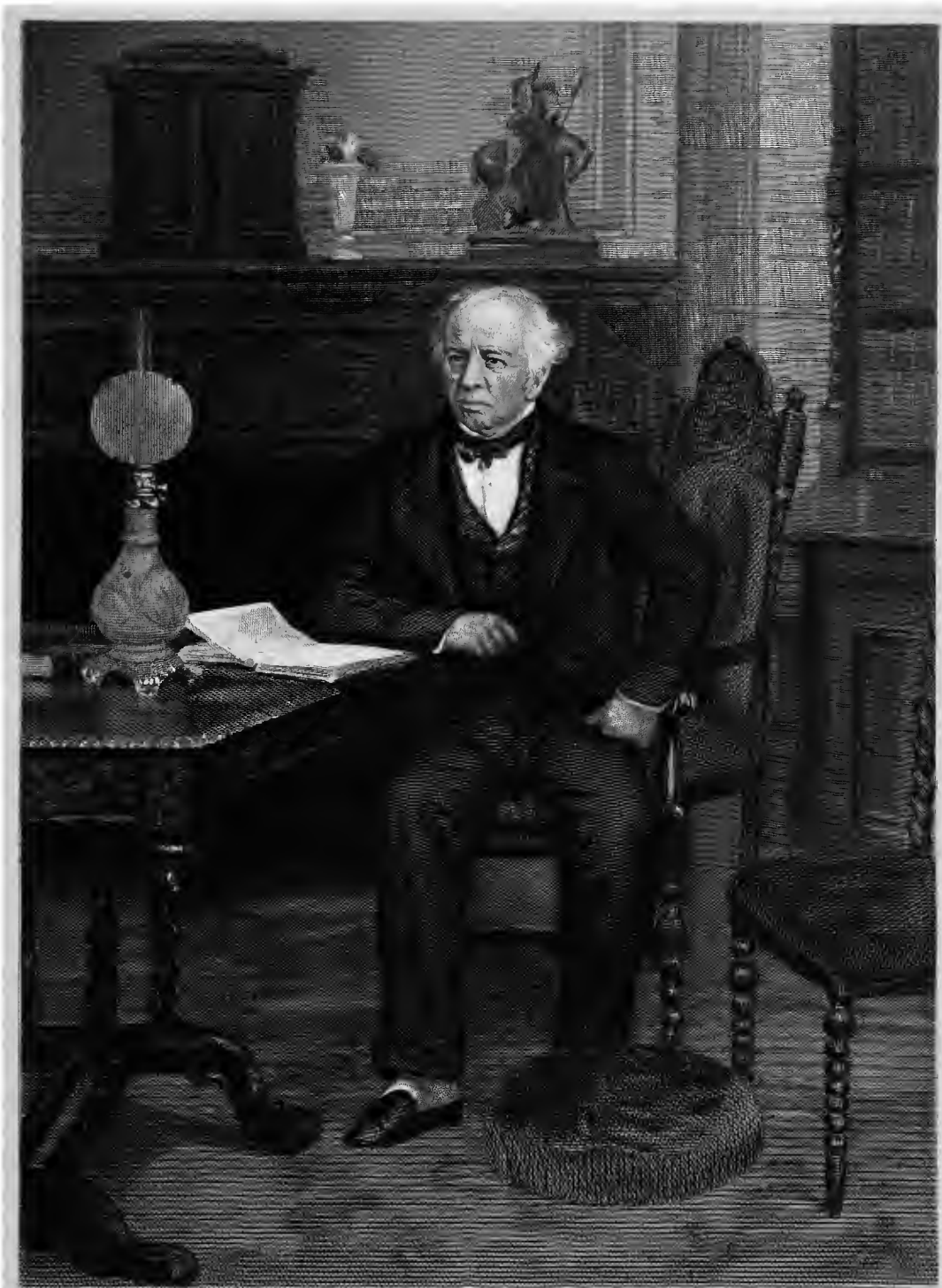
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William H. Sewall



William H. Sewall

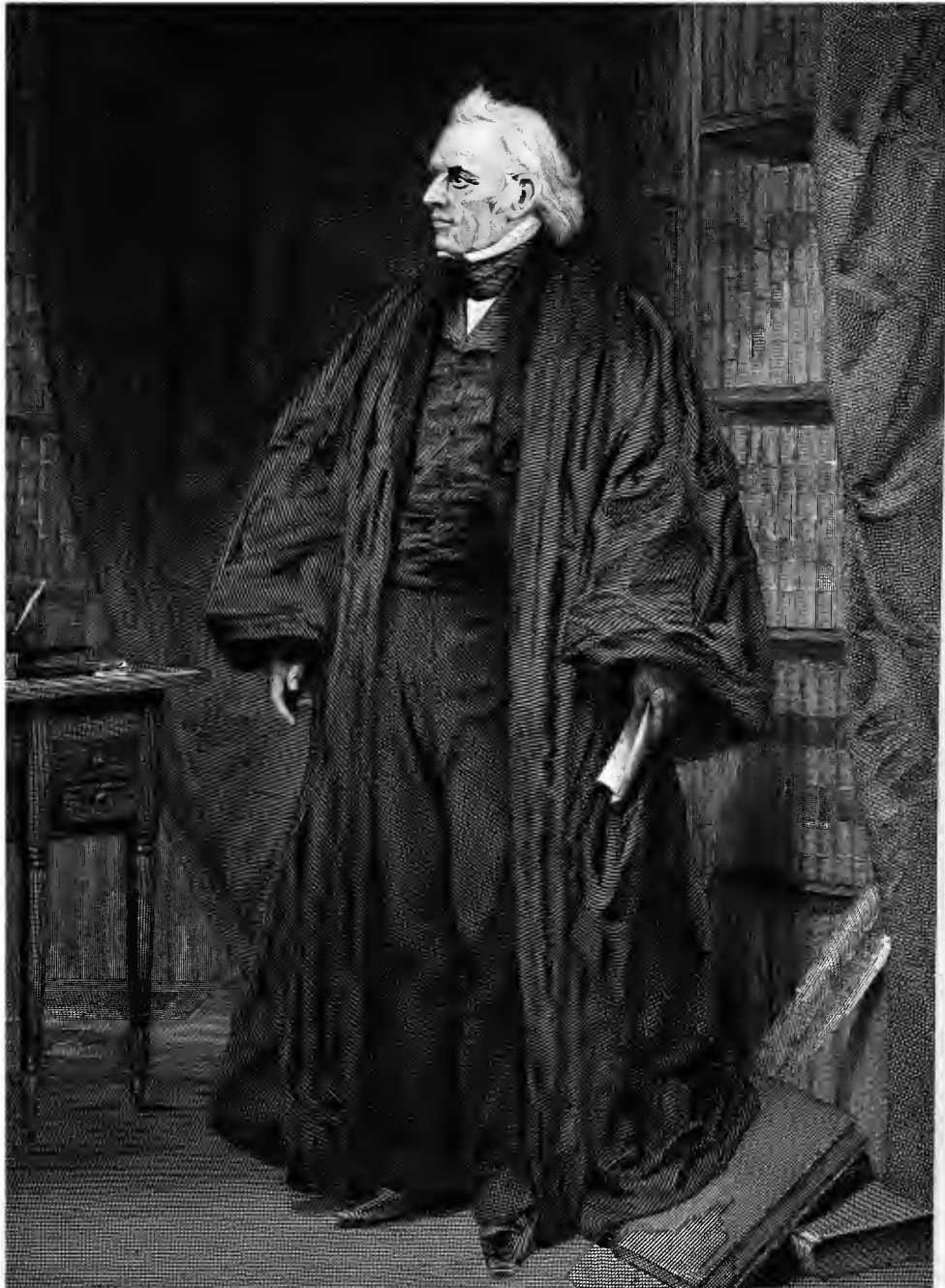


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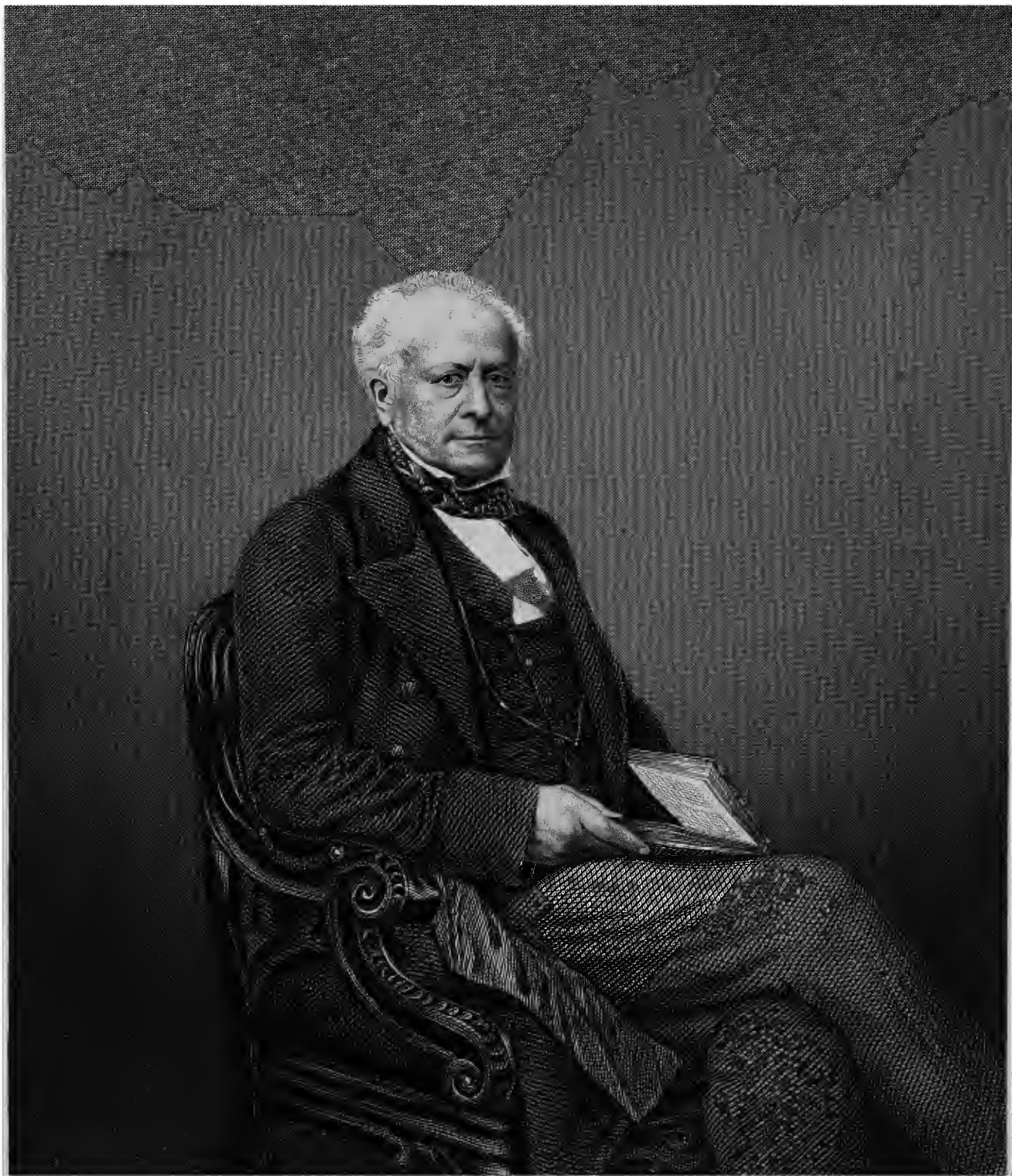


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L. C. Cairns Esq.



Joseph Story



SIR FITZROY KELLY, Q. C. M. P.

Attorney General.



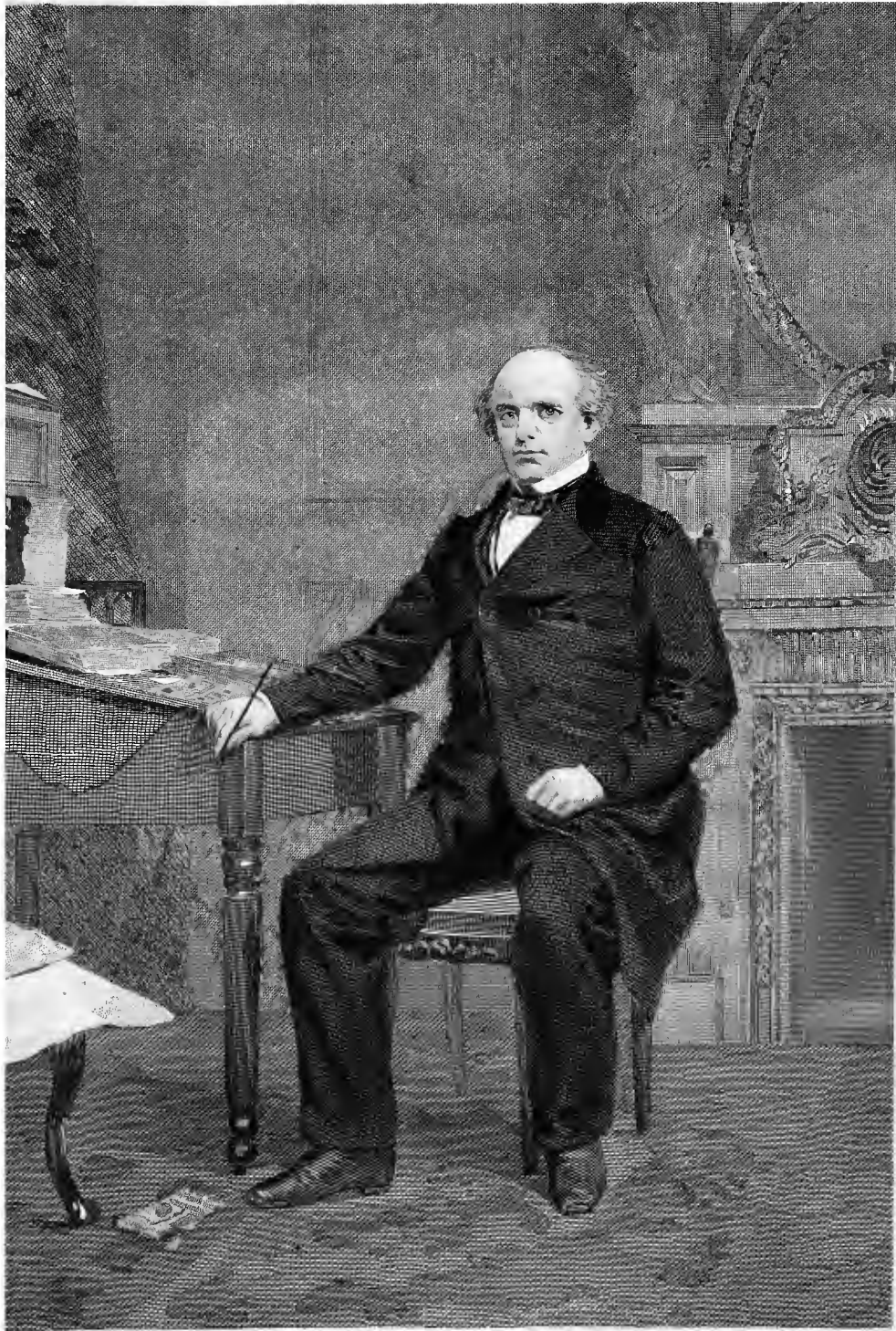
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THE RIGHT HONOURABLE

LORD CHELMSFORD ;

Lord High Chancellor of Great Britain



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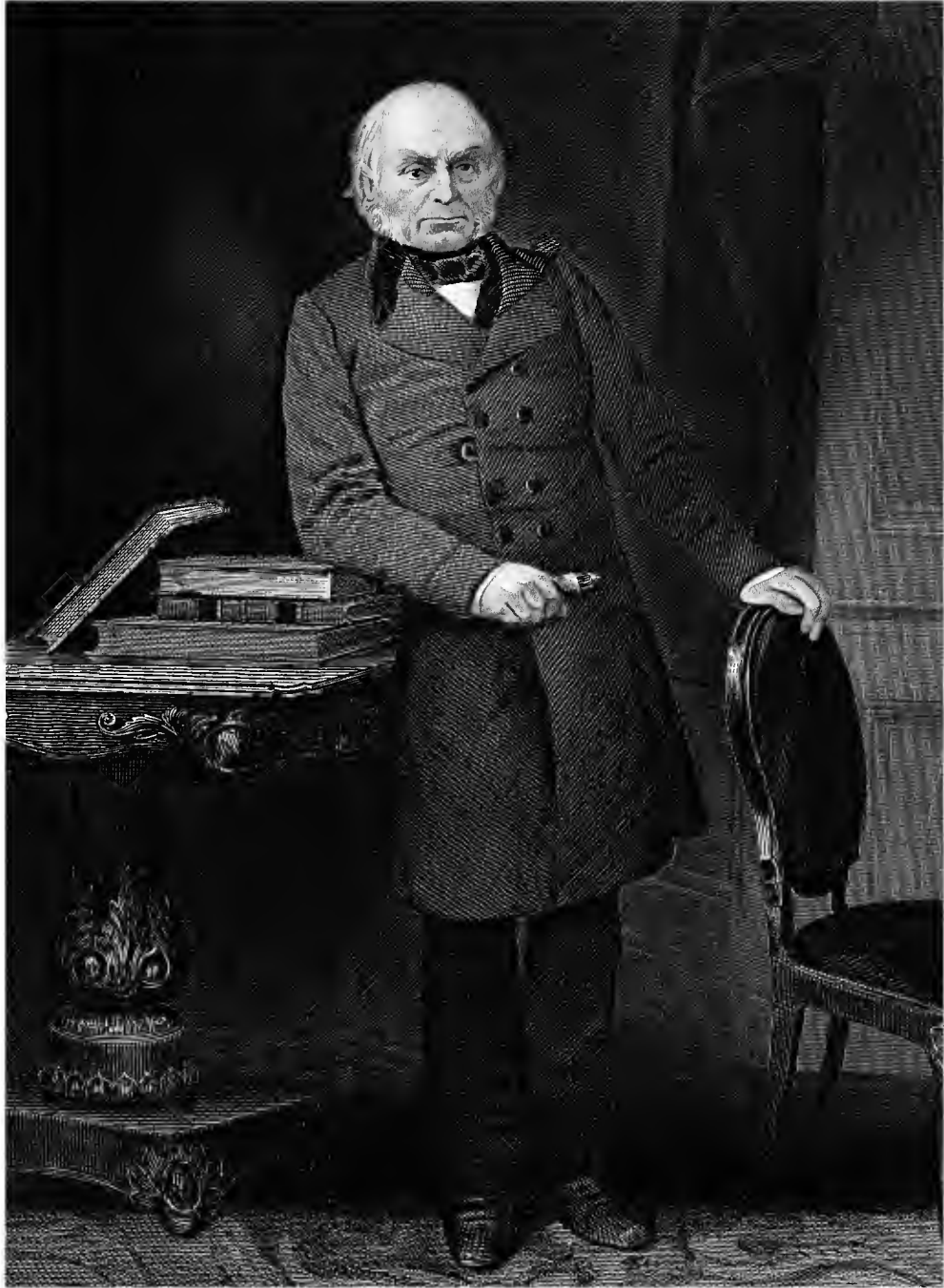


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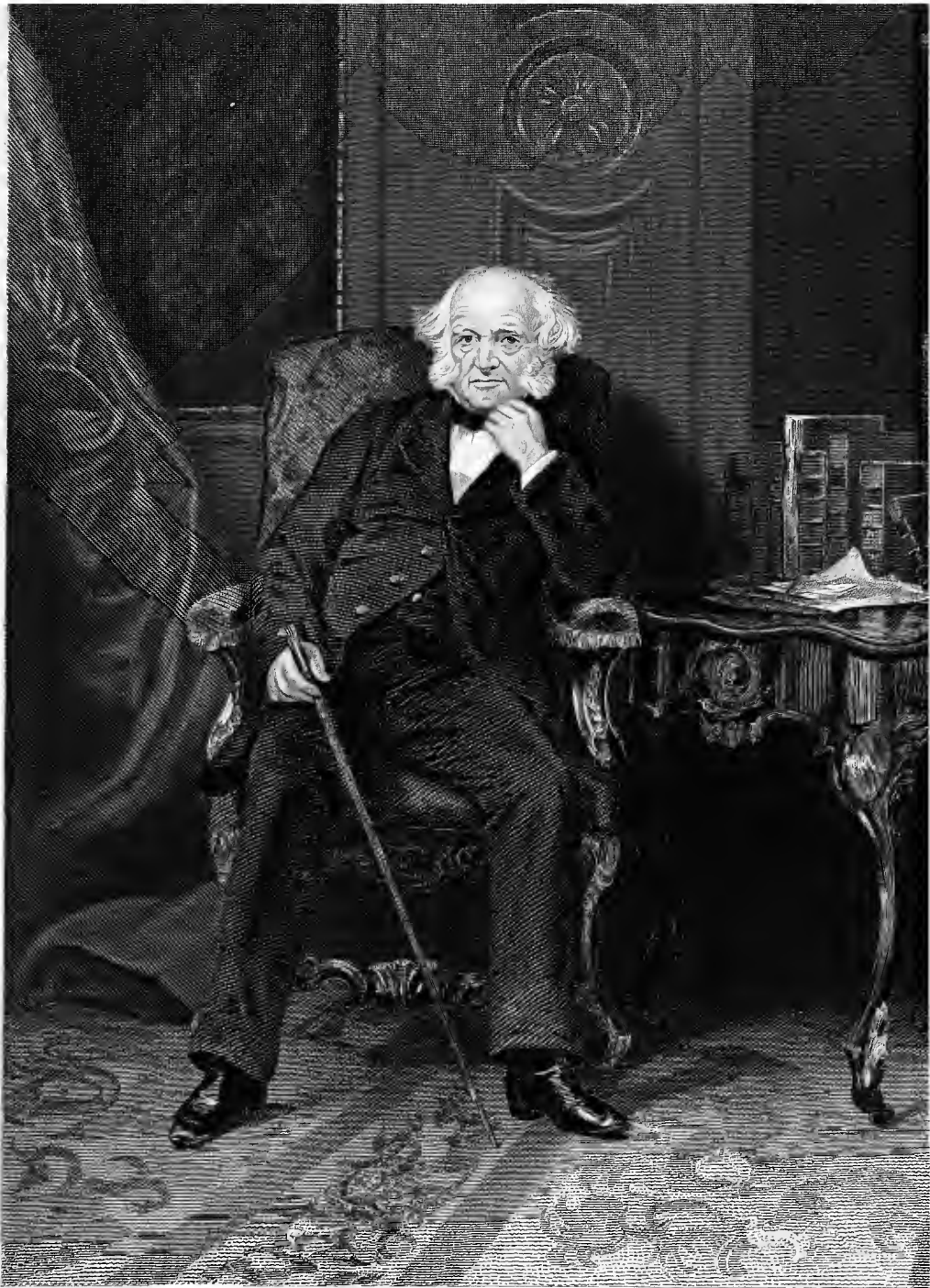
Lord Chief Justice of the Court of Exchequer 1832



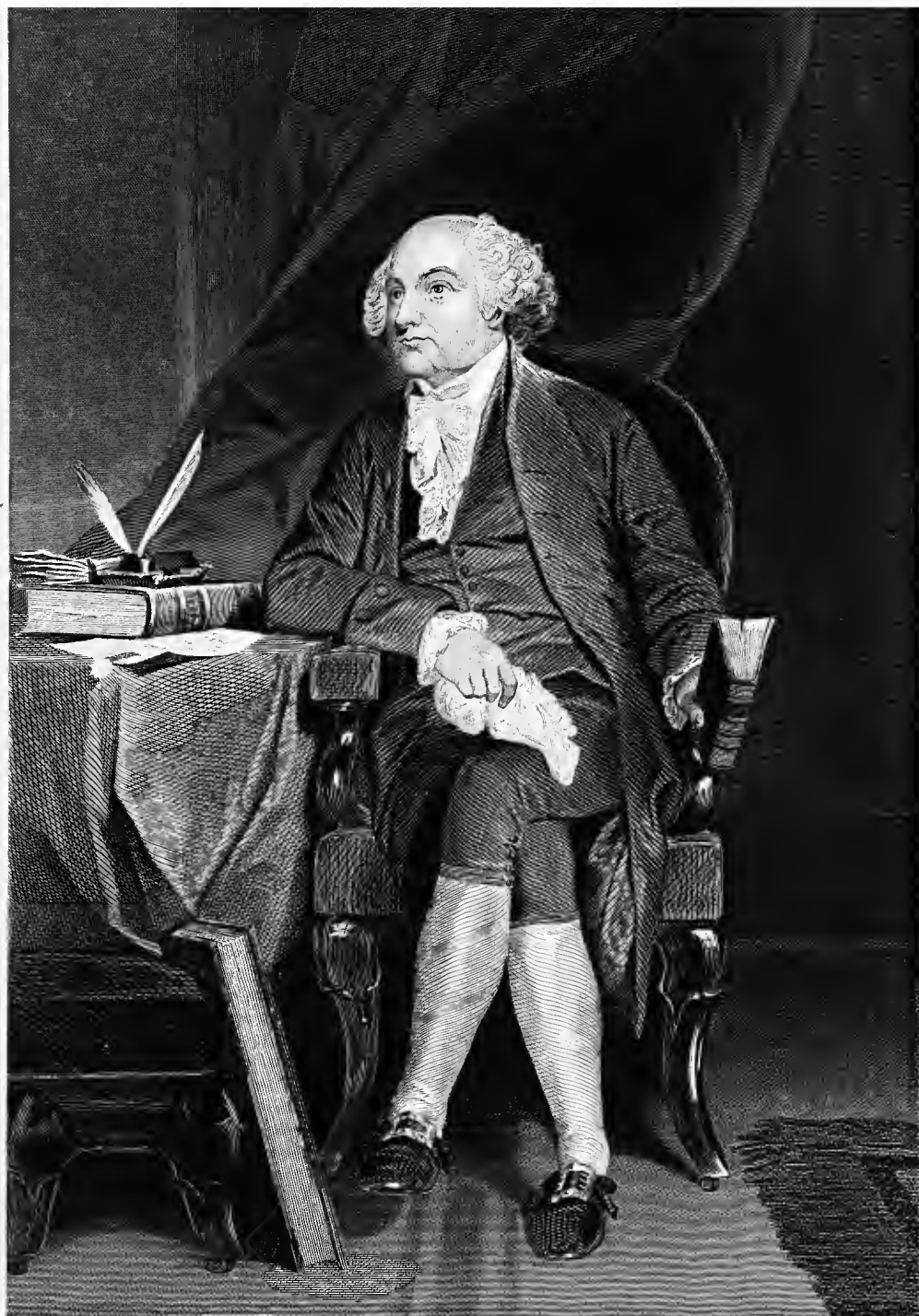
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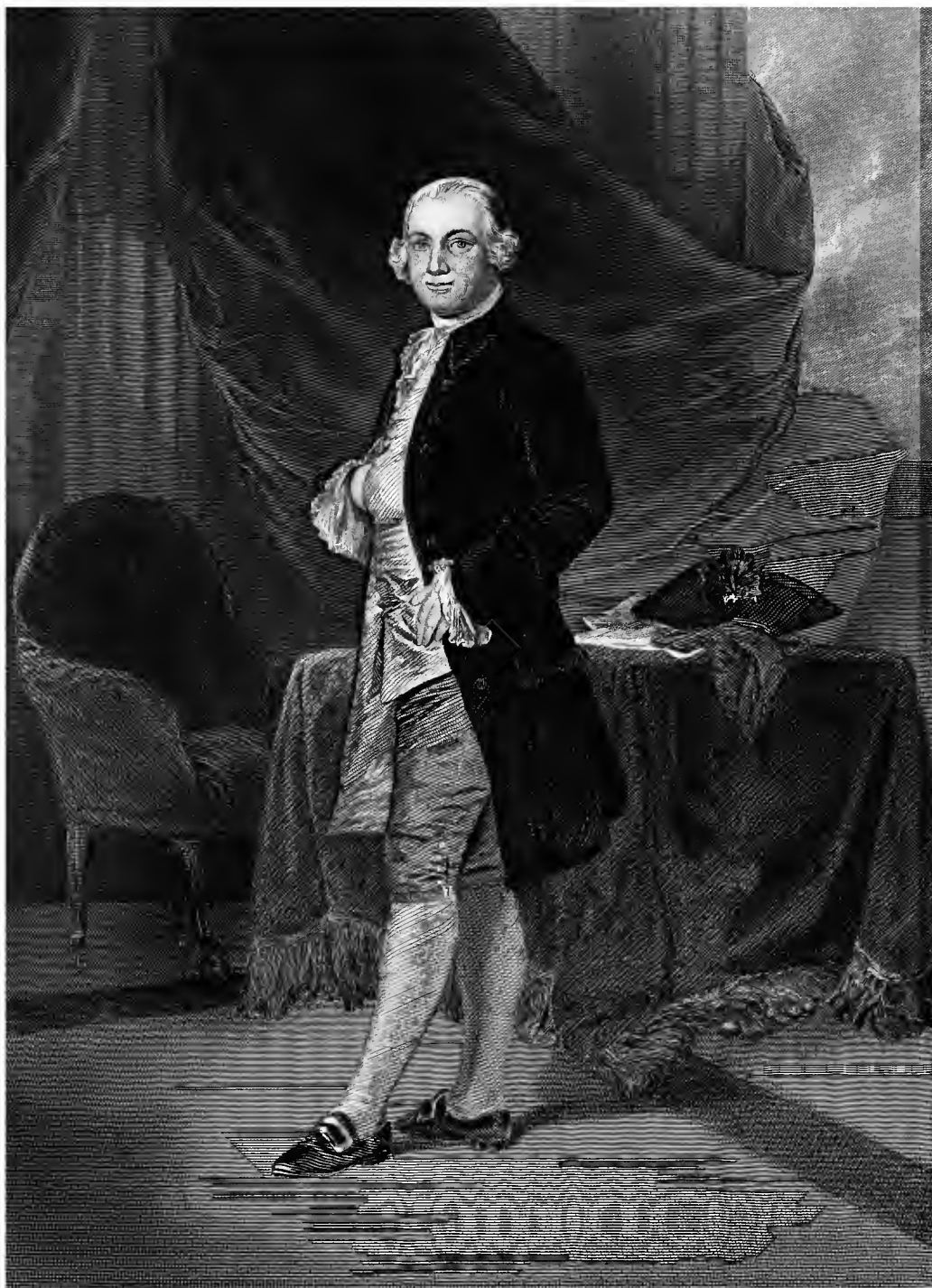
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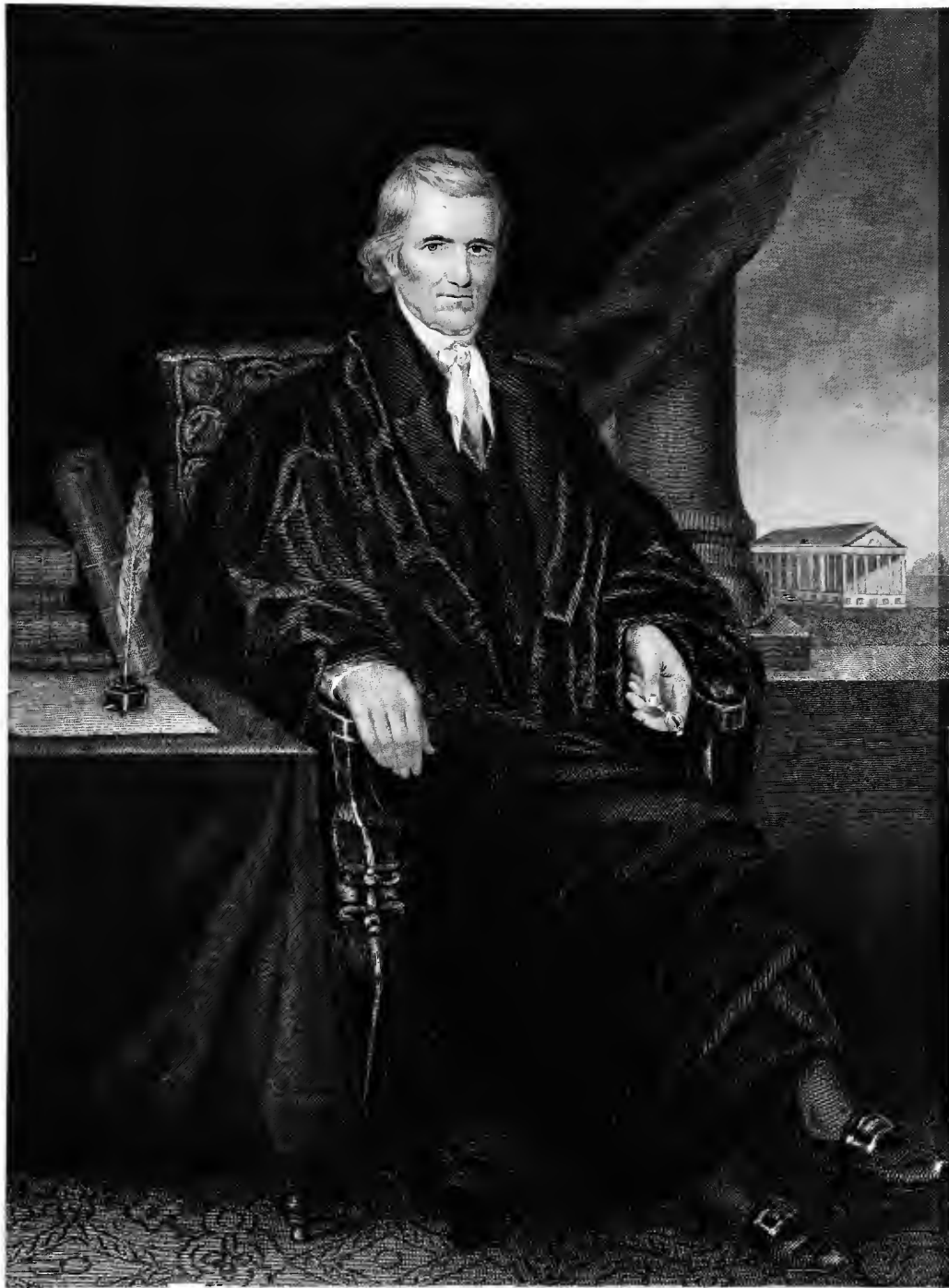
Wm. Brewster



John Adams



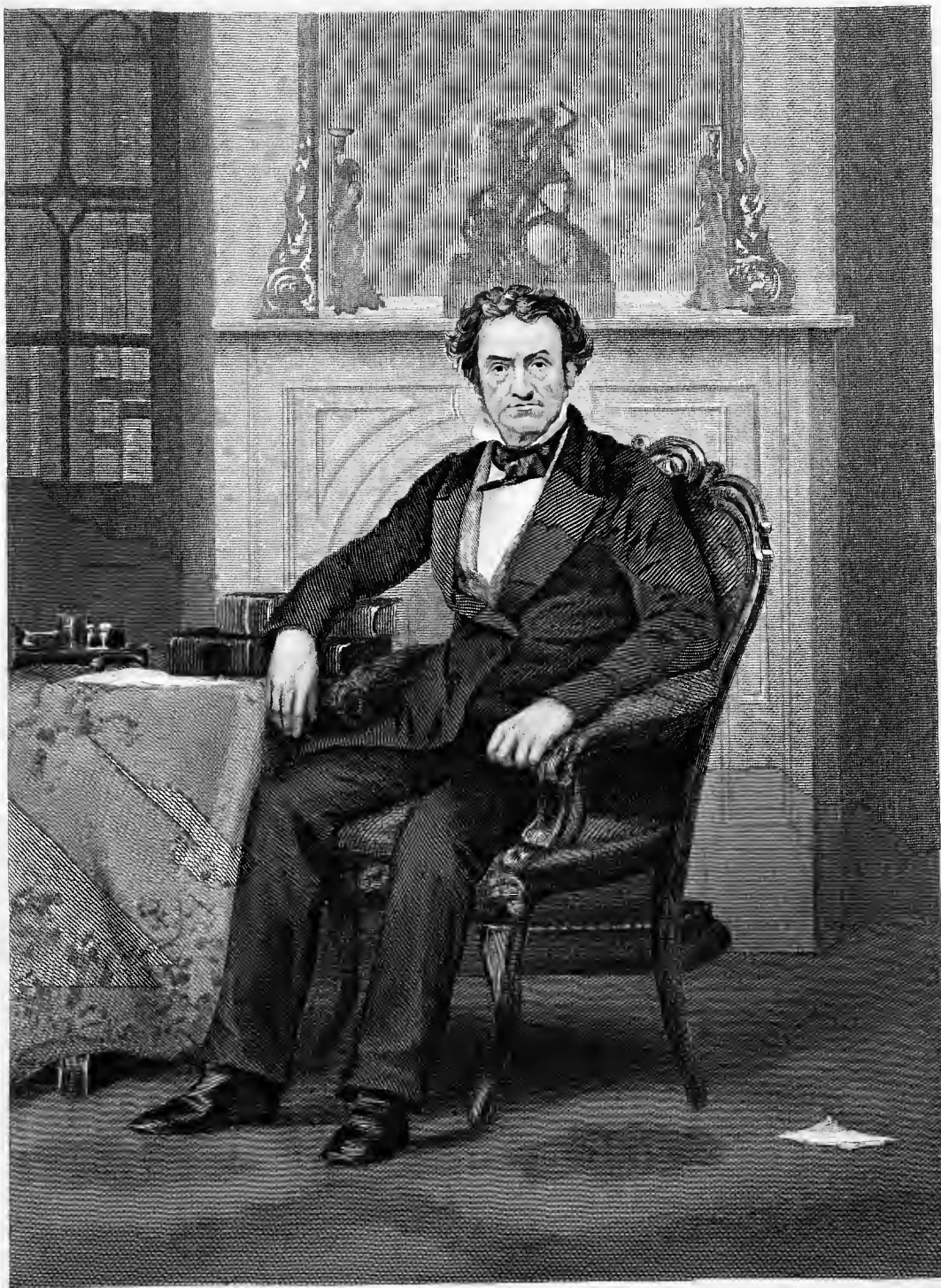
James Otis



John Marshall



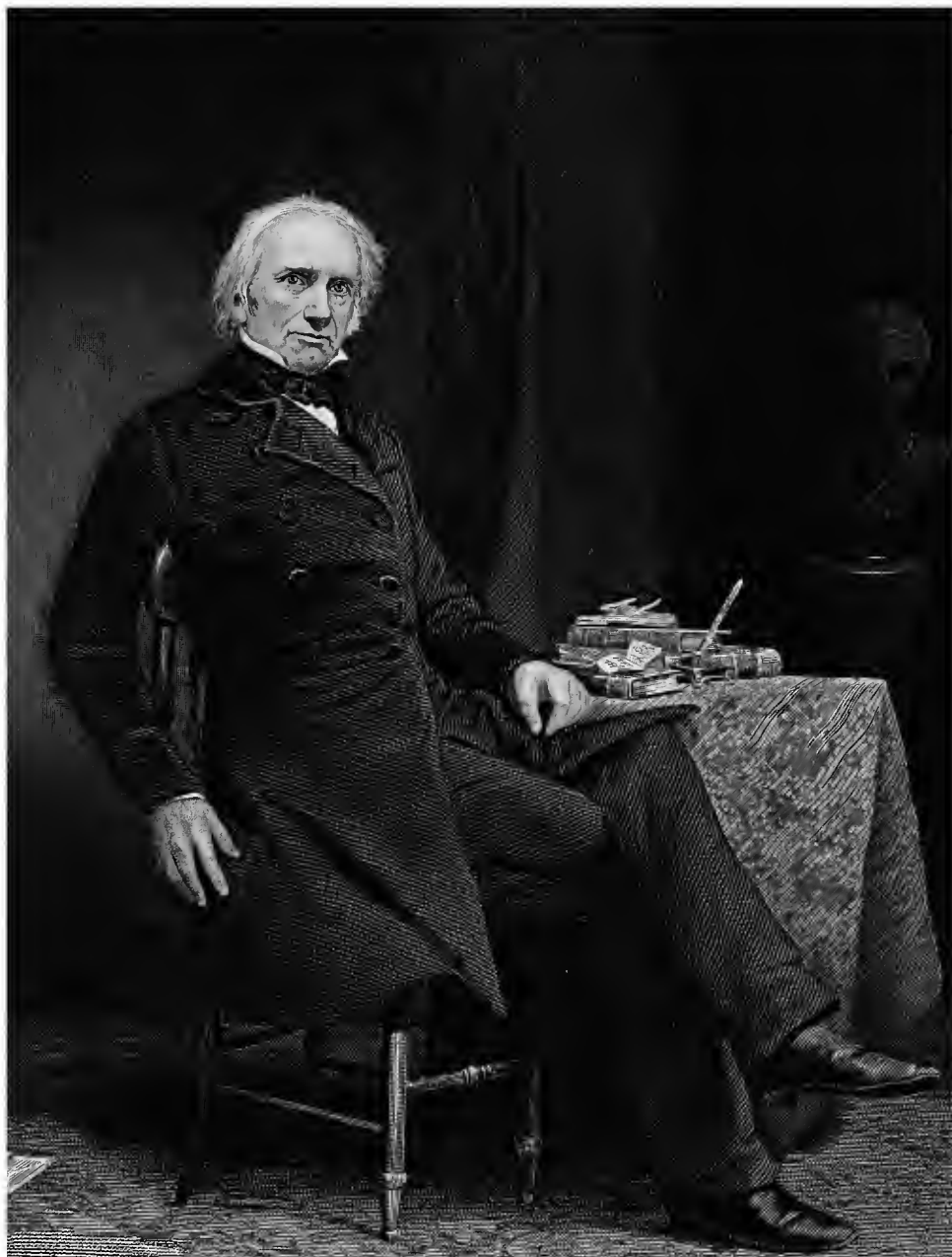
Leitch



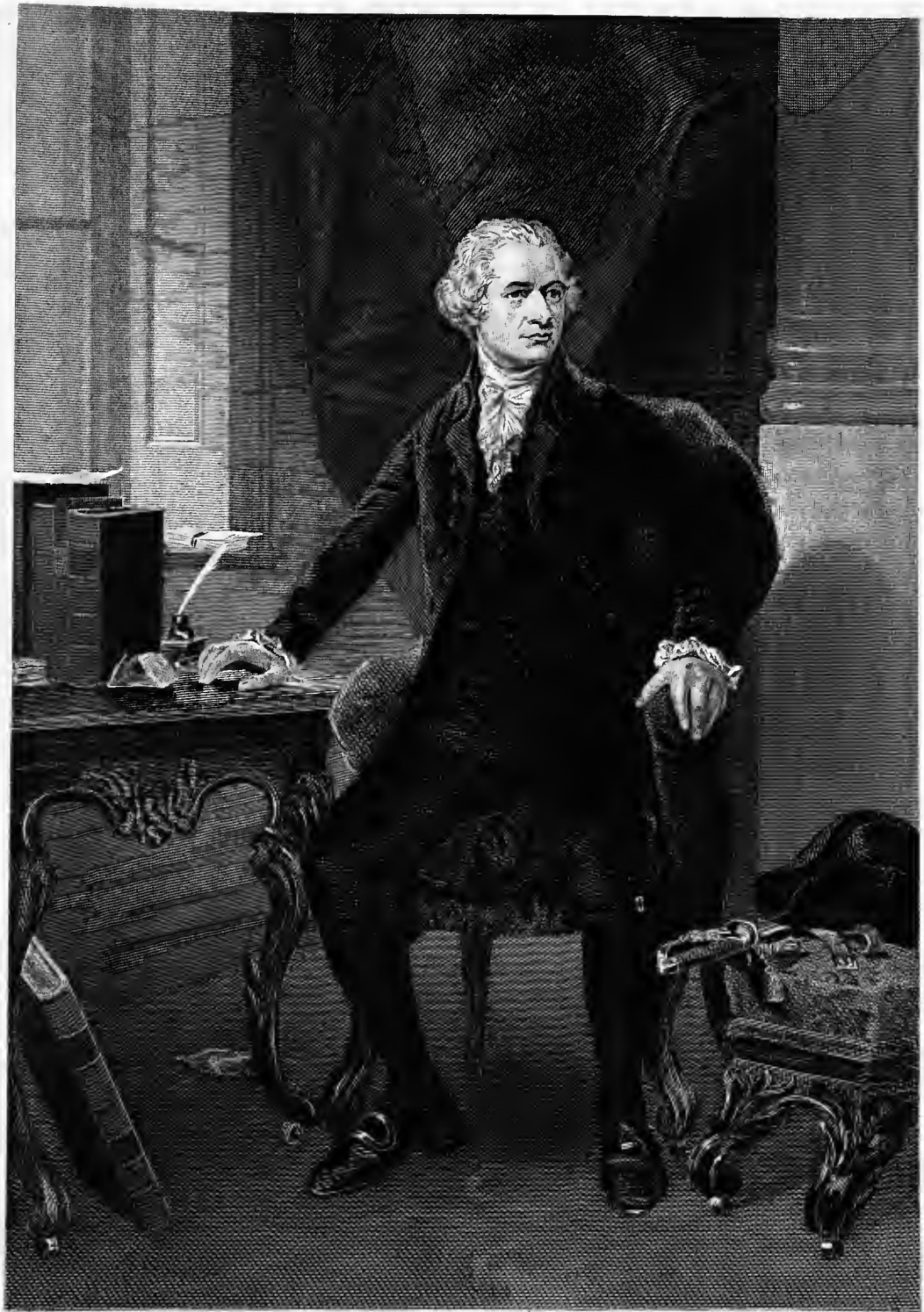
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F. Douglass



H. Clay



Hamilton

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